



STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
LEGAL AND REGULATORY SERVICES

BUREAU OF GENERAL COUNSEL – ADMINISTRATIVE RULES UNIT

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April 9, 2021

David J. Alukonis, Director
Office of Legislative Services – Administrative Rules
25 Capitol Street
State House Annex, Room 219
Concord, NH 03301

RE: Notice Number: 2020-108

Dear Mr. Alukonis:


Enclosed is a “Conditional Approval Request” for proposed rule He-P 830 entitled “Psychiatric Residential Treatment Program”.

The conditional approval request makes changes in response to comments from the office of legislative services (OLS) staff attorney.

The NH Department of Health and Human Services submits this rule for review and approval by the Joint Legislative Committee on Administrative Rules at its next regular meeting on **April 16, 2021**.

Thank you for your cooperation and assistance with this process.

Sincerely,


Allyson E. Zinno
Administrator-Administrative Rules Unit

Enclosure

See comment on p. 58 and notes on pages 1 and 64.

Adopt He-P 830, previously effective 12-21-19 (Document #12952, Interim), and expired 6-18-20, to read as follows:

PART He-P 830 PSYCHIATRIC RESIDENTIAL TREATMENT PROGRAMS

He-P 830.01 Purpose. The purpose of this part is to set forth the classification of and licensing requirements for psychiatric treatment residential programs pursuant to RSA 151:2, I(e)(2), and as described in RSA 151:9, VII(a)(4). Psychiatric treatment programs are designed and structured to provide intensive short term, intermediate, and long-term mental health services to persons who have psychiatric disorders or are in an acute phase of their mental illness.

He-P 830.02 Scope. This part shall apply to any individual, agency, partnership, corporation, government entity, association, or other legal entity operating a psychiatric residential treatment program, except:

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

Note to JLCAR. The Committee may have questions about whether the expired rules have been enforced, which would violate RSA 541-A:22, I.

He-P 830.03 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 clients;
 - (2) “Physical abuse” means the misuse of physical force which results or could result in physical injury to clients; or
 - (3) “Sexual abuse” means contact or interaction of a sexual nature involving clients without his or her informed consent.
- (b) “Activities of daily living (ADL)” means basic daily routine tasks such as eating, transferring, toileting, bathing, dressing and medication management.
- (c) “Addition” means an increase in the building area, aggregate floor area, building height, or number of stories of a structure.
- (d) “Administer” means an act whereby one or more doses of a medication is instilled into the body, applied to the body of, or otherwise given to a person for immediate consumption or use by an individual authorized by law, including RSA 318-B and RSA 326-B.
- (e) “Administration of medication” means the provision of one or more doses of medication to clients by licensed nurses or other personnel qualified by law or rule to administer medication.
- (f) “Administrator” means the individual appointed by the licensee to be responsible for all aspects of the daily operation of the licensed premise.
- (g) “Admission” means the point in time when a client, who has been accepted by a licensee for the provision of services, physically moves into the facility.
- (h) “Admission agreement” means the document signed by the client and the facility administrator detailing what both the client and the facility agree to do.

(i) “Adult” means persons 18 years or older.

(j) “Advance directive(s)” means a directive allowing a person to give directions about future medical care or to designate another person to make medical decisions if he or she should lose the capacity to make health care decisions. The term “advance directive” includes living wills and durable powers of attorney for health care, in accordance with RSA 137-J, or a surrogate decision-maker in accordance with RSA 137-J:35.

(k) “Adverse reaction” means a physical or mental negative change after taking medication.

(l) “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, captive or affiliated insurance companies.

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

(n) “Ambulatory” means an individual who is able to walk about and is not bedridden.

(o) “Applicant” means an individual, agency, partnership, corporation, government entity, association, or other legal entity seeking a license to operate a psychiatric residential treatment program (PRTTP) pursuant to RSA 151.

(p) “Area of non-compliance” means any action, failure to act, or other set of circumstances that cause a license to be out of compliance with RSA 151, He-P 830, or other federal or state requirements.

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

(r) “Change of ownership” means change in the controlling interest of an established PRTTP to an individual or successor business entity.

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

(t) “Child” means “child” as defined in RSA 170-E:25, I.

(u) “Client” means any person admitted to or in any way receiving care, services or both from an PRTTP licensed in accordance with RSA 151 and He-P 830.

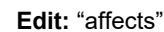
(v) “Client record” means documents maintained for each client, which includes all documentation required by RSA 151 and He-P 830, and all documentation compiled relative to the client as required by other federal or state laws.

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

(x) “Contracted employee” means a temporary employee working under the direct supervision of the PRTF but employed by an outside agency.

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

(z) “Critical incident stress management (CISM)” means an adaptive, short-term psychological helping process that focuses solely on an immediate and identifiable problem. Individuals undergoing

Edit: "affects"

CISM are able to discuss the situation that occurred and how it effects them and those around them allowing individuals to use this forum to acquire the tools necessary to hopefully limit post-traumatic stress related issues in their own lives and recognize it in others.

(aa) "Days" means calendar days, unless otherwise specified.

(ab) "Department" means the New Hampshire department of health and human services.

(ac) "Direct care" means the provision of services to a patient that require some degree of interaction between the patient and the health care provider including but not limited to assessment, performing procedures, teaching, and implementation of a treatment plan.

(ad) "Direct care personnel" means any person providing direct care to a client.

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

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

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

(ah) "Emergency" means an unexpected occurrence or set of circumstances, which require immediate remedial attention.

(ai) "Emergency plan" means a document outlining the responsibilities of personnel in an emergency.

(aj) "Employee" means anyone employed by the PRTP and for whom the facility has direct supervisory authority.

(ak) "Enforcement action" means the imposition of an administrative fine, the denial of an application, or the revocation or suspension of a license in response to non-compliance with RSA 151 or He-P 830.

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

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

(an) "Facility" means "facility" as defined in RSA 151:19, II.

(ao) "Guardian" means a person appointed in accordance with RSA 464-A to make informed decisions relative to the client's health care and personal needs.

(ap) “Health care occupancy” means an occupancy used for purposes of medical or other treatment of care of 4 or more persons where such occupants are mostly incapable of self-preservation due to age, physical or mental disability, or because of security measures not under the occupant's control.

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

(ar) “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.

(as) “Infection Control Risk Assessment (ICRA)” means a determination of the potential risk of transmission of various infectious agents in the facility. A classification of those risks, and a list of required practices for mitigating those risks during construction or renovation.

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

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

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

(aw) “Inspection” means the process followed by the department to determine an applicant’s or a licensee’s compliance with RSA 151 and He-P 830 or to respond to allegations, pursuant to RSA 151:6, of non-compliance with RSA 151 or He-P 830.

(ax) “Involuntary admission” means an order of involuntary commitment made pursuant to RSA 135-C:34-54 by a probate court.

(ay) “Involuntary emergency admission” means an order of emergency involuntary admission made pursuant to RSA 135-C:27-33.

(az) “License” means the document issued by the department to an applicant at the start of operation as a PRTP which authorizes operation as a PRTP in accordance with RSA 151 and He-P 830, and includes the name of the licensee, the name of the business, the physical address, the license classification, the effective date, and the license number.

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

(bb) “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 New Hampshire licensing board.

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

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

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

(bf) “Life safety code” 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.

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

(bh) “Medical director” means a psychiatrist licensed in New Hampshire pursuant to RSA 329 who is responsible for the implementation of client care policies and the coordination of medical care in the facility.

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

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

- (1) Epilepsy;
- (2) Intellectual disability;
- (3) Continue or non-continuous periods of intoxication caused by substances such as alcohol or drugs; or
- (4) Dependence upon or addiction to any substance such as alcohol or drugs”.

(bk) “Modification” means the reconfiguration of any space, the addition, relocation, elimination of any door or window, the addition or elimination of load-bearing elements, the reconfiguration or extension of any system, or the installation of any additional equipment. The term does not include repair or replacement of interior finishes.

(bl) “Neglect” means an act or omission, which results or could result in the deprivation of essential services necessary to maintain the minimum mental, emotional, or physical health and safety of any client.

(bm) “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.

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

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

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

(bq) “Owner” means a person or organization who has controlling interest in the PRTP.

(br) “Patient rights” means the privileges and responsibilities possessed by each client provided by RSA 151:21.

(bs) “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.

(bt) “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 writing by a client or client’s legal guardian for a specific limited purpose or for the general purpose of assisting the client in the exercise of any rights as defined by RSA 151:19, V.

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

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

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

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

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

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

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

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

(cb) “Psychiatric residential treatment program (P RTP)” means a non-hospital-based program which provides 24 hour, intensive short term, intermediate and long term psychiatric treatment and care to persons who have psychiatric symptoms and disorders or are in an acute phase of their mental illness. This definition includes the term “psychiatric residential treatment facility (P RTF)”.

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

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

(ce) “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.

(cf) “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.

(cg) “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.

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

(1) The unanticipated death of the client;

(2) An injury to a client, that is indicative of potential abuse or neglect under circumstances where the injury was not observed by any person or the cause of the injury could not be explained by the client; or

(3) The unexplained absence of a client from the P RTF who is determined to be a danger to themselves or others.

(ci) “Self-evacuate” means the client can initiate and complete movement from any location in the facility to an exit with or without staff assistance.

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

(ck) “Short term” means that a client is expected to remain in the facility less than 14 days.

(cl) “Significant change” means a visible or observable change in functional, cognitive, or daily activity ability or limitations of the client.

(cm) “Stock medications” means medications, to be determined by the medical director, that are kept onsite for use by clients and to be administered as ordered by the medical director or the clients' licensed provider.

(cn) “Surrogate decision-maker” means a health care proxy or an agent, who is an advocate for incompetent patients.

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

(cp) “Therapeutic diet” means a diet ordered by a licensed practitioner as part of the treatment for disease or clinical conditions.

(cq) “Treatment plan” means a documented guide developed, as a result of the assessment process, for the provision of care and services to a client.

(cr) “Unexplained absence” means an incident involving a client leaving the premises of the PRTP without the knowledge of the PRTP personnel.

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

He-P 830.04 Initial License Application Requirements.

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

(1) A completed application form entitled “Application for Residential or Health Care License” (April 2021), signed by the applicant or 2 of the corporate officers, 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.”;

b. For any new PRTP 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.”; and

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

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

(2) A floor plan of the prospective PRTP;

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

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

b. “Certificate of Formation,” if a limited liability corporation; or

c. "Certificate of Trade Name," where applicable;

(4) The applicable fee in accordance with RSA 151:5, V, payable in cash or, if paid by check or money order, the exact amount of the fee made payable to the "Treasurer, State of New Hampshire";

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

(6) Written local approvals as follows:

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

1. The health officer verifying that the applicant complies with all applicable local health requirements and drinking water and wastewater requirements;

2. The building official verifying that the applicant complies with all applicable state building codes and local building ordinances;

3. The zoning officer verifying that the applicant complies with all applicable local zoning ordinances; and

4. The fire chief verifying that the applicant complies with the state fire code, RSA 153:1, VI-a, including the appropriate occupancy chapter of the life safety code 101 and the uniform fire code, NFPA 1, as published by the national fire protection association and as amended by the state board of fire control and ratified by the general court pursuant to RSA 153:5; and

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

(7) If the PRTP 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 a public water supply is used, a copy of a water bill; and

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

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

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

He-P 830.05 Processing of Applications and Issuance of Licenses.

(a) An application for an initial license shall be complete when the department determines that all items required by He-P 830.04(a) have been received.

(b) If an application does not contain all of the items required by He-P 830.04(a), the department shall notify the applicant in writing of the items required before the application can be processed.

(c) Any licensing fee submitted to the department in the form of a check or money order and returned to the state for any reason shall be processed in accordance with RSA 6:11-a.

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

(e) Unless a waiver has been granted pursuant to He-P 830.10, the department shall deny a licensing request in accordance with He-P 830.13(b) if, it determines that the applicant, administrator, or proposed licensee:

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

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

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

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

(f) Following both a clinical and a life safety code inspection, a license shall be issued if the department determines that an applicant requesting an initial license is in full compliance with RSA 151 and He-P 830.

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

(h) A written notification of denial, pursuant to He-P 830.13(b), shall be sent to an applicant applying for an initial license if it has been determined by the inspection in (f) above and a maximum of 2 follow-up inspections that the prospective premises are not in full compliance with RSA 151 and He-P 830.

(i) A written notification of denial, pursuant to He-P 830.13(b)(4), shall be sent to an applicant applying for an initial license if the department has received no communication from the applicant within 3 months of sending written notification to the applicant that their application is complete and an inspection needs to be scheduled.

(j) A written notification of denial shall be sent to an applicant applying for an initial license if it has been determined by the inspection mentioned in He-P 830.09(b) that the prospective premises are not in full compliance with RSA 151 and He-P 830.

He-P 830.06 License Expirations and Procedures for Renewals.

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

(b) Each licensee seeking renewal shall complete and submit to the department an application form pursuant to He-P 830.04(a)(1) at least 120 days prior to the expiration of the current license to include:

(1) The current license number;

(2) A request for renewal of any existing waivers previously granted by the department, in accordance with He-P 830.10(f), if applicable. If such a request is not received, the rule(s) for which the waiver was previously requested shall not continue to be waived beyond the expiration of the current license;

(3) A list of current employees who have a permanent waiver granted in accordance with He-P 830.18(f); and

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

(c) In addition to (b) above, if a private water supply is used, the licensee shall provide documentation that every 3 years the water supply has been tested for bacteria and nitrates and determined to be at acceptable levels, in accordance with Env-Dw 702 for bacteria and Env-Dw 704 for nitrates.

(d) Following an inspection, as described in He-P 830.09, a license shall be renewed if the department determines that the licensee:

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

(2) Is found to be in compliance with RSA 151, He-P 830, and all federal requirements at the renewal inspections, or has submitted a POC that has been accepted by the department and implemented by the licensee if areas of non-compliance were cited.

(e) Any licensee who does not submit a complete application for renewal prior to the expiration of an existing license and does not intend to cease operation shall be required to submit an application for an initial license pursuant to He-P 830.04 and shall be subject to a fine in accordance with He-P 830.13.

He-P 830.07 PRTP Construction, Modifications or Structural Alterations.

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

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

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

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

(e) The department shall review construction documents, drawings, and plans of a newly proposed or existing facility for compliance with all applicable sections of RSA 151 and He-P 830 and notify the applicant or licensee as to whether the proposed changes comply with these requirements.

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

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

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(1) Saf-C 6000 and the state fire code and codes adopted by reference as defined in RSA 153:1, VI-a, except as modified in Saf-Fmo 300, as follows:

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

(2) The state building code as defined in RSA 155-A:1, IV, as amended by the building code review board pursuant to RSA 155-A:10, V.

(h) All PRTPs newly constructed or renovated after the 2021 effective date of these rules shall follow the ~~Facility Guidelines Institute's (FGI) "Guidelines for Design and Construction of Residential Health, Care, and Support Facilities" (2018 edition) or the~~ Facility Guidelines Institute's (FGI) "Guidelines for Design and Construction of Hospitals, ~~Chapter 2.2 2.12 Psychiatric Patient Care Unit~~" (2018 edition), ~~as applicable,~~ available as noted in Appendix A, and including the ANSI/ASHREA/ASHE Standard "Ventilation of Health Care Facilities" (170-2017) as incorporated in the referenced in the FGI guidelines.

(i) Where rehabilitation is done within an existing facility, all such work shall comply ~~with the FGI's "Guidelines for Design and Construction of Residential Health, Care, and Support Facilities" (2018 edition) and/or the FGI's "Guidelines for Design and Construction of Hospitals, Chapter 2.2 2.12 Psychiatric Patient Care Unit"~~ (2018 edition), available as noted in Appendix A.

(j) The department shall be the authority having jurisdiction for the requirements in He-P 830.07(h) and (i) and shall negotiate compliance with the licensee and their representatives and grant waivers in accordance with He-P 830.10 as appropriate.

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

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

(m) Exceptions or variances pertaining to the state fire code referenced in He-P 830.07(g)(1) above shall be granted only by the state fire marshal.

(n) The building, including all construction and rehabilitated spaces, shall be subject to an inspection pursuant to He-P 830.09 prior to its use.

He-P 830.08 PRTP Requirements for Organizational Changes.

(a) The PRTP 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) Bed increase; or
- (6) Services.

(b) The PRTP shall complete and submit a new application and obtain a new or revised license, license certificate or both, as applicable, prior to operating, for:

- (1) A change in ownership;
- (2) A change in the physical location;
- (3) An increase in the number of clients beyond what is authorized under the current license;
or
- (4) A change in services, including a change in level of client safety, security, and environment.

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

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

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

- (1) Ownership, unless the current licensee is in full compliance, in which case an inspection shall be conducted as soon as practical by department;
- (2) The physical location;
- (3) A change in licensing classification;
- (4) A change that places the facility under a different life safety code occupancy chapter;
- (5) An increase in the number of clients beyond what is authorized under the current license;
or
- (6) A change in services.

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

(g) A revised license and license certificate shall be issued for changes in the PRTP's name.

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

- (1) A change of administrator;
- (2) A change in address without a change in physical location;
- (3) When a waiver has been granted in accordance with He-P 830.10; or
- (4) An increase in the number of clients;

(i) The PRTP shall inform the department in writing when there is a change in administrator no later than 5 days prior to a change or as soon as practicable in the event of a death or other extenuating circumstances requiring an administrator change, and provide the department with the following:

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

- (2) The results of a NH criminal background check conducted pursuant to He-P 830.18(d)(1);
- (3) Copies of applicable licenses for the new administrator; and
- (4) A copy of the criminal attestation as described in He-P 830.18(t).

(j) Upon review of the materials submitted in accordance with (i) above, the department shall make a determination as to whether the new administrator meets the qualifications for the position as specified in He-P 830.16(a) and He-P 830.18(i).

(k) If the department determines that the new administrator does not meet the qualifications, it shall so notify the PRTP in writing so that a waiver can be sought or the program can search for a qualified candidate.

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

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

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

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

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

(q) The licensee shall arrange for storage of, and access to, client records in the event the PRTP ceases operation.

He-P 830.09 Inspections.

(a) For the purpose of determining compliance with RSA 151 and He-P 830, as authorized by RSA 151:6 and RSA 151:6-a, the applicant or licensee shall admit and allow any department representative at any time to inspect the following:

- (1) The proposed or licensed premises;
- (2) All programs and services provided by the PRTP; and
- (3) Any records required by RSA 151 and He-P 830.

(b) The department shall conduct a clinical and life safety code inspection, as necessary to determine full compliance with RSA 151 and He-P 830 prior to:

- (1) The issuance of an initial license;

- (2) A change in ownership, except as allowed by He-P 830.08(e)(1);
- (3) A change in the licensee's physical location;
- (4) A change in licensing classification;
- (5) An increase in the number of clients beyond what was authorized under the initial license;
- (6) Occupation of a space after construction, renovations or structural alterations; or
- (7) The renewal of a license.

(c) A statement of findings for clinical inspections or a notice to correct for life safety code inspections shall be issued when, as a result of any inspection, the department determines that the PRTP is in violation of any of the provisions of He-P 830, RSA 151, or other federal or state requirement.

(d) If areas of non-compliance were cited in either a notice to correct or a statement of findings, the licensee shall submit a POC, in accordance with He-P 830.12(c), within 21 days of the date on the letter that transmits the inspection report.

(e) In addition to (b) above, the department shall verify the implementation of any POC accepted or issued by the department.

He-P 830.10 Waivers.

(a) Applicants or licensees seeking waivers of specific rules in He-P 830 shall submit a written request for a waiver to the commissioner that includes:

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

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

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

- (1) Meets the objective or intent of the rule;
- (2) Does not negatively impact the health or safety of the clients; and
- (3) Does not negatively affect the quality of client services.

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

(e) Waivers shall not be transferable.

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

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

He-P 830.11 Complaints.

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

- (1) The alleged violation(s) of RSA 151 or He-P 830 occurred not more than 6 months prior to the date the department was made aware of the allegation(s);
- (2) The complaint is based upon the complainant's first-hand knowledge regarding the allegation(s) or on information reported directly to the complainant by a person who has first-hand knowledge regarding the allegation(s); and
- (3) There is sufficient specific information for the department to determine that the allegations(s), if proven true, would constitute a violation of any of the provisions of RSA 151 or He-P 830.

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

- (1) The name and address, if known of the PRTP, or the alleged unlicensed individual or entity;
- (2) The name, address, and telephone number of the complainant; and
- (3) A description of the situation that supports the complaint and the alleged violation(s) of RSA 151 or He-P 830.

(c) Investigations shall include all techniques and methods for gathering information that are appropriate to the circumstances of the complaint, which include:

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

(d) For a licensed PRTP, the department shall:

- (1) Provide written notification of the results of the investigation to the licensee along with an inspection report if areas of non-compliance were found as a result of the investigation;
- (2) Notify any other federal, state, or local agencies of suspected violations of their statutes, rules, or regulations based on the results of the investigation, as appropriate;
- (3) If the department determines the complaint is unfounded, and does not violate their statutes, rules, or regulations the licensee will be notified in writing of such determination and the department will take no further action; and
- (4) If areas of non-compliance are found, require the licensee to submit a POC in accordance with He-P 830.12(c).

(e) The following shall apply for the unlicensed individual or entity:

- (1) The department shall provide written notification to the owner or person responsible that includes:

- a. The date of investigation;
- b. The reasons for the investigation; and
- c. Whether or not the investigation resulted in a determination that the services being provided require licensing under RSA 151:2, IV;

(2) In accordance with RSA 151:7-a II, the owner or person responsible shall be allowed 7 days from the date of receipt of the notice required by He-P 830.11(e)(1) to submit a completed application for a license;

(3) If the owner of an unlicensed PRTP does not comply with (2) above, the department shall issue a written warning to immediately comply with RSA 151 and He-P 830; and

(4) Any person or entity who fails to comply after receiving a warning as described in (3) above shall be subject to an action by the department for injunctive relief under RSA 151:17 and an administrative fine pursuant to He-P 830.13(c)(6).

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

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

He-P 830.12 Administrative Remedies.

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(a) The department shall, after notice and opportunity to be heard, impose administrative remedies for violations of RSA 151, He-P 830 or other applicable licensing rules, including:

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

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

- (1) Identifies each area of non-compliance with RSA 151 or a provision of these rules; and
- (2) Identifies the specific remedy(s) that has been proposed.

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

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

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

(2) The licensee shall submit a POC to the department within 21 calendar days of the date on the letter that transmitted the statement of findings or notice to correct unless the licensee requests, either verbally or in writing, and the department agrees, to extend that deadline, based on the following criteria:

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

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

- a. Achieves compliance with RSA 151 and He-P 830;
- b. Addresses all areas of non-compliance as cited in the statement of findings or notice to correct;
- c. Prevents a new violation of RSA 151 or He-P 830 as a result of the implementation of the POC; and
- d. Specifies the date upon which the deficiencies will be corrected;

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

(5) If the POC is not acceptable:

- a. The department shall notify the licensee in writing of the reason for rejecting the POC;
- b. The licensee shall develop and submit a revised POC within 14 days of the date of the written notification from the department that states the original POC was rejected unless, within the 14-day period, the licensee requests an extension, either via telephone or in writing, and the department grants the extension, based on the following criteria:
 1. The licensee demonstrates that he or she has made a good faith effort to develop and submit the POC within the 14-day period but has been unable to do so; and
 2. The department determines that the health, safety or well-being of a client will not be jeopardized as a result of granting the waiver;

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

d. If the revised POC is not acceptable to the department, or is not submitted within 14days of the date of the written notification from the department that states the original POC was rejected, the licensee shall be subject to a directed POC in accordance with (d) below and a fine in accordance with He-P 830.13(c)(12);

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

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

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

(8) If the POC or revised POC has not been implemented by the completion date at the time of the next inspection the licensee shall be:

- a. Notified by the department in accordance with (b) above; and
- b. Issued a directed POC in accordance with (d) below and shall be subject to a fine in accordance with He-P 830.13(c)(12).

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

(1) As a result of an inspection, areas of non-compliance were identified that require immediate corrective action to protect the health and safety of the clients and personnel;

(2) A revised POC is not submitted within 14-days of the written notification from the department; or

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

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

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

(2) Impose a fine according to He-P 830.13(c)(13);

(3) Deny the application for a renewal of a license in accordance with He-P 830.13(b)(6); or

(4) Revoke or suspend the license in accordance with He-P 830.13(b).

(f) The department shall offer an opportunity for informal dispute resolution to any applicant or licensee who disagrees with an area or areas of non-compliance cited by the department on a statement of findings if the applicant or licensee submits a written request for an informal dispute resolution to the department.

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

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

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

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

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

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

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

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

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

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

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

He-P 830.13 Enforcement Actions and Hearings.

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

(1) The reasons for the proposed action;

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

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

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

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

(1) An applicant or a licensee has violated provisions of RSA 151 or He-P 830, which poses a risk of harm a client's health, safety, or well-being;

- (2) An applicant or a licensee has failed to pay a fine imposed under administrative remedies;
 - (3) An applicant or a licensee has had a check returned to the department for insufficient funds and has not re-submitted the outstanding fee in the form of cash, money order, or certified check;
 - (4) After being notified of and given an opportunity to supply missing information, an applicant or licensee fails to submit an application that meets the requirements of He-P 830.04;
 - (5) An applicant, licensee, or any representative or employee of the applicant or licensee:
 - a. Provides false or misleading information to the department;
 - b. Prevents or interferes, or fails to cooperate with any inspection or investigation conducted by the department; or
 - c. Fails to provide requested files or documents to the department;
 - (6) The licensee failed to implement or continue to implement a POC that has been accepted or imposed by the department in accordance with He-P 830.12(d) and (e);
 - (7) The licensee has submitted a POC that has not been accepted by the department in accordance with He-P 830.12(c)(5) and has not submitted a revised POC as required by He-P 830.12(c)(5);
 - (8) The licensee is cited a third time under RSA 151 or He-P 830 for the same violations within the last 5 inspections;
 - (9) A licensee, or its corporate officers has had a license revoked and submits an application during the 5-year prohibition period specified in (h) below;
 - (10) Unless a waiver has been granted upon inspection, the applicant's premise is not in compliance with RSA 151 or He-P 830;
 - (11) Unless a waiver has been granted the department makes a determination that the applicant, administrator, or licensee has been found guilty of or pled guilty to a felony assault, fraud, theft, abuse, neglect, or exploitation adjudicated and founded by the department or any administrative agency in this or any other state;
 - (12) The applicant or licensee employs an administrator who does not meet the qualifications for the position under circumstances in which the department has not granted a waiver; or
 - (13) The applicant has had a license revoked by any division or unit of the department within 5 years prior to the application.
- (c) The department shall impose fines as follows:
- (1) For a failure to cease providing unlicensed services after being notified by the department of the need for a license, in violation of RSA 151:2, the fine shall be \$2000.00 for an applicant or unlicensed provider;
 - (2) For a failure to cease operations after a denial of a license and after receipt of an order to cease and desist immediately, in violation of RSA 151:2 and RSA 541-A:30, or continuing to operate after a failure to renew the license by the expiration date, the fine for an applicant, unlicensed entity, or a licensee shall be \$2000.00;

- (3) For advertising services or otherwise representing themselves as having a license to provide services that they are not licensed to provide, in violation of RSA 151:2, III, the fine for an applicant, licensee, or unlicensed entity shall be \$500.00;
- (4) For a failure to transfer a client whose needs exceeds the services or programs provided by the PRTP, in violation of RSA 151:5-a, the fine shall be \$500.00;
- (5) For admission of a client whose needs at the time of registration exceed the services or programs authorized by the PRTP, in violation of RSA 151:5-a, II and He-P 830.15(b), the fine for a licensee shall be \$1000.00;
- (6) For a failure to comply with the directives of a warning issued by the department, in violation of RSA 151:7-a and He-P 830.11(e)(4), the fine for an unlicensed provider or licensee shall be \$500.00;
- (7) For a failure to submit a renewal application for a license prior to the expiration date, in violation of He-P 830.06(e), the fine shall be \$100.00;
- (8) For a failure to notify the department prior to a change of ownership, in violation of He-P 830.08(a)(1), the fine shall be \$500.00;
- (9) For a failure to notify the department prior to a change in the physical location, in violation of He-P 830.08(a)(2), the fine shall be \$1000.00;
- (10) For a failure to notify the department of a change in e-mail address, in violation of He-P 830.08(l), the fine shall be \$100.00;
- (11) For a refusal to allow access by the department to the PRTP's premises, programs, services or records, in violation of He-P 830.09(a), the fine for an applicant, unlicensed entity, or licensee shall be \$2000.00;
- (12) For a failure to submit a POC or revised POC, within 21 or 14-days, respectively, of the date on the letter that transmits the inspection report, or the date of an extension as granted, in violation of He-P 830.12(c)(2) and (5), the fine for a licensee shall be \$500.00;
- (13) For a failure to implement or maintain the corrective action set forth in any POC that has been accepted or issued by the department, in violation of He-P 830.12(c)(8), the fine for a licensee shall be \$1000.00;
- (14) For a failure to establish, implement, or comply with licensee policies, as required by He-P 830.14(a), (d), and (e), the fine for a licensee shall be \$500.00;
- (15) For a failure to provide services or programs required by the licensing classification and specified by He-P 830.14(c), the fine for a licensee shall be \$500.00;
- (16) For providing false or misleading information or documentation, in violation of He-P 830.14(h), the fine shall be \$1000.00 per offense;
- (17) For failure to meet the needs of a client or clients, as described in He-P 830.18(a) and He-P 830.24(i), the fine for a licensee shall be \$1000 per client;
- (18) For placing a client in a room that has not been approved or licensed by the department, in violation of He-P 830.09(b)(5), the fine for a licensee shall be \$500;

- (19) For employing an administrator or other personnel who do not meet the qualifications for the position, without having a waiver granted by the department in accordance with He-P 830.10, in violation of He-P 80.16(a), the fine for a licensee shall be \$500.00;
- (20) For failure to submit architectural plans or drawings, when applicable, prior to undertaking construction or renovation of the licensed facility in violation of He-P 830.07(a), the fine for a licensed facility shall be \$500.00;
- (21) For occupying a renovated area of a licensed facility or new construction prior to approval by local and state authorities, as required by He-p 830.09(b)(6), the fine shall be \$500 which shall be assessed daily if the facility fails to vacate the renovated area immediately upon receiving notice from the department;
- (22) When an inspection determines that there is a violation of RSA 151 or He-P 830 for which a fine was previously imposed, in addition to any other enforcement actions taken by the department, the fines assessed shall be as follows:
- a. If the same area of non-compliance is cited within 2 years of the original non-compliance, the fine for a licensee shall be \$1000; or
 - b. If the same area of non-compliance is cited a third time within 2 years of being fined in (a) above, the fine for a licensee shall be \$2000.00; and
- (23) For refusal to cooperate with the inspection or investigation conducted by the department the fine shall be \$ 2000.00;
- (24) For failure to report an unusual incident as required by He-P 830.14(w), the fine for a licensee shall be \$500.00 per occurrence;
- (25) Each day that the individual or licensee continues to be in violation of the provisions of RSA 151 or He-P 830 shall constitute a separate violation and shall be fined in accordance with He-P 830.13(c), provided that if the applicant or licensee is making good faith efforts to comply with the provisions of RSA 151 or He-P 830, as verified by documentation or other means, the department shall not issue a daily fine.
- (d) Payment of any imposed fine to the department shall meet the following requirements:
- (1) Payment shall be made in the form of check or money order made payable to the “Treasurer, State of New Hampshire” or cash in the exact amount due; and
 - (2) Cash, money order, or certified check shall be required when an applicant or licensee has issued payment to the department by check, and such check was returned for insufficient funds.
- (e) An applicant or licensee shall have 30 days after receipt of the notice of enforcement action to request a hearing to contest the action.
- (f) If a written request for a hearing is not made pursuant to (e) above, the action of the department shall become final.
- (g) The department shall order the immediate suspension of a license, the cessation of operations, and the transfer of care of clients when it finds that the health, safety or well-being of clients is in jeopardy and requires emergency action in accordance with RSA 541-A:30, III.
- (h) If an immediate suspension is upheld, the licensee shall not resume operating until the department determines through inspection that compliance with RSA 151 and He-P 830 is achieved.

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

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

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

(1) The date of the department's decision to revoke or deny the license, if appeal is filed; or

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

(l) Notwithstanding (k) above, the department shall consider an application submitted after the decision to revoke or deny becomes final, if the applicant demonstrates that circumstances have changed to the extent that the department now has good cause to believe that the applicant has the requisite degree of knowledge, skills, and resources necessary to maintain compliance with the provisions of RSA 151 and He-P 830.

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

(n) No ongoing enforcement action shall preclude the imposition of any remedy available to the department under RSA 151, RSA 541-A, or He-P 830.

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

He-P 830.14 Duties and Responsibilities of the Licensee.

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

(b) The licensee shall have written policies and procedures setting forth:

(1) The rights and responsibilities of clients in accordance with the patients' bill of rights;

(2) The policies described in He-P 830.14, He-P 830.16, He-P 830.19, and He-P 830.26; and

(3) A policy that ensures the safety of all persons present on the licensed premises where firearms are permitted.

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

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

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

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

(1) Reviewing the policies and procedures every 3 years; and

(2) Revising them as needed.

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

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

(i) The licensee shall not:

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

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

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

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

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

(2) Emergency response and crisis intervention;

(3) Medication services in accordance with He-P 830.17;

(4) Food services in accordance with He-P 830.20;

(5) Housekeeping, laundry, and maintenance services;

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

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

(8) Personal supervision of clients when necessary to prevent unreasonable risks to the safety of self or others if the client is not supervised.

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

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

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

(3) Behavioral health care services.

(m) Licensees shall:

- (1) Appoint an administrator;
 - (2) Establish, in writing, a chain of command that sets forth the line of authority for the operation of the PRTP;
 - (3) Verify the qualifications of all personnel;
 - (4) Provide sufficient numbers of qualified personnel to meet the needs of adult clients;
 - (5) Maintain a minimum staff to client ratio of one staff person to 6 clients during awake hours and one staff person to 12 clients during sleeping hours, for children or youth clients;
 - (6) Provide additional staff when a client's treatment plan requires a more stringent staff to client ratio than required above;
 - (7) Provide sufficient supplies, equipment, and lighting to meet the needs of the clients;
 - (8) Require all personnel to follow the orders of the licensed practitioner for every client that has such orders and encourage the client to follow the licensed practitioner's orders;
 - (9) Initiate action to maintain the PRTP in full compliance at all times with all relevant health and safety requirements contained in applicable federal, state, and local laws, rules, regulations, accreditations, and ordinances; and
 - (10) Implement any POC that has been accepted by the department.
- (n) The licensee shall educate personnel about the needs and services required by the clients under their care.
- (o) Physical or chemical restraints shall only be used as allowed by RSA 151:21, IX.
- (p) The licensee shall consider all clients competent and capable of making health care decisions unless the client:
- (1) Has a guardian appointed by a court;
 - (2) Has a durable power of attorney for health care or surrogate decision making that has been activated; or
 - (3) Is an un-emancipated minor.
- (q) In accordance with RSA 141-C:7, He-P 301.02, and He-P 301.03 the licensee shall report all positive tuberculosis test results for personnel to the office of infectious disease control by:
- (1) Telephone at 603-271-4496;
 - (2) Telephone at 603-271-5300 after business hours; or
 - (3) Fax to 603-271-0545.
- (r) If the licensee registers and treats a client who is known to have a disease reportable under He-P 301 or an infectious disease, which is any disease caused by the growth of microorganisms in the body which might or might not be contagious, the licensee shall:

(1) Follow the required procedures and personnel training for the care of the clients, as specified by the United States Centers for Disease Control and Prevention “2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings” (June 2007 edition), available as noted in Appendix A; and

(2) Have an Airborne Infection Isolation (AII) Room, compliant with the Facility Guidelines Institute’s (FGI) “Guidelines for Design and Construction of Hospitals” (2018 edition) ~~and/or FGI’s, “Guidelines for Design and Construction of Residential Health, Care, and Support Facilities” (2018 Edition)~~, available as noted in Appendix A.

(t) Immediately after the use of a physical or chemical restraint, the client’s guardian or agent, if any, and the department shall be notified of the use of restraints.

(u) The PRTP shall:

(1) Have policies and procedures on:

- a. What type of emergency restraints may be used;
- b. When restraints may be used; and
- c. Who may authorize the use of restraints; and

(2) Provide personnel with education and training on the limitations and the correct use of restraints.

(v) The use of chemical, mechanical, or physical restraints, as defined by He-P 830.03(q), (aq), and (bb), respectively, shall only be permitted as allowed by RSA 151:21.

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

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

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

- a. The PRTP name;
- b. A description of the incident, including identification of injuries, if applicable;
- c. The name of the licensee(s) or personnel involved in, witnessing or responding to the incident;
- d. The name or identifying code for client(s) involved in or witnessing the incident;
- e. The date and time of the incident;
- f. The action taken in direct response to the incident;
- g. If medical intervention was required, by whom and the date and time;

h. Whether the client's guardian or agent, surrogate decision-maker, or personal representative, or emergency contact person was notified;

i. The signature of the person reporting the incident; and

j. The date and time the client's licensed practitioner was notified, if applicable;

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

a. All items referenced in (1) above;

b. The names and results of interview(s) with all personnel, resident(s) or other individuals involved in the reportable incident, including all applicable statement signatures; and

c. The action taken by the licensee in direct response to the incident(s), including any and all follow-ups;

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

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

(x) The licensee shall:

(1) Provide basic supplies necessary for clients to maintain grooming and personal hygiene, such as soap, shampoo, toothpaste, toothbrush, and toilet paper; and

(2) Not be responsible for the cost of purchasing a specific brand of product at a client's request.

(y) The licensee shall not exceed the maximum number of clients or beds licensed by the department, unless authorized by the department, such as during an emergency.

(z) 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) The most recent inspection report as specified in RSA 151:6-a; for the previous 12 months

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

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

(5) A copy of the licensee's complaint procedure, including a statement that complaints may be submitted in writing to the:

Department of Health and Human Services
Health Facilities Administration

129 Pleasant Street, Concord, NH 03301,

or by calling 1-800-852-3345; and

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

(aa) The licensee shall give a client a written notice as follows:

(1) For an increase in the cost or fees for any PRTP services 30 days advanced notice; or

(2) For an involuntary change in room or bed location, 14 days advanced notice, unless the change is required to protect the health, safety, and well-being of the client or other clients, in such case the notice shall be as soon as practicable.

(ab) 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 830 as authorized by RSA 151:6 and RSA 151:6-a.

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

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

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

(1) Procedures for backing up files to prevent loss of data;

(2) Safeguards for maintaining the confidentiality of information pertaining to clients and staff; and

(3) Systems to prevent tampering with information pertaining to clients and staff.

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

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

(1) Health requirements;

(2) Building ordinances;

(3) Fire ordinances; and

(4) Zoning ordinances.

(ah) The licensee shall determine the smoking status of the PRTP.

(ai) If smoking is to be allowed, the licensee shall develop and implement smoking policies and designate smoking areas in accordance with RSA 155:66-69 and He-P 830.24(f).

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

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

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

He-P 830.15 Client Admission Criteria, Temporary Absence, Transfer, and Discharge Criteria.

(a) Except for emergency treatment or involuntary admissions ordered under RSA 135-C:27-54, all placements of clients in the programs and services of the PRTP shall be voluntary and shall require the documented consent of the client or guardian. Placements shall be made into those programs and services which least restrict the client's freedom of movement, ability to make decisions, and participation in his community while achieving the purposes of habilitation and treatment.

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

- (1) Mobile and can self-evacuate. However, reasonable accommodation shall be made when possible to admit clients who have mobility impairment, provided that evacuation assistance needs can be met;
- (2) A voluntary admission in accordance with He-M 405;
- (3) A voluntary admission by guardian;
- (4) An involuntary emergency admission (IEA) pursuant to RSA 135-C:27–33 beginning with initial custody and continuing through the day of the probable cause hearing;
- (5) An IEA pursuant to RSA 135-C:27–33 for the period of such admission following the probable cause hearing; or
- (6) Non-emergency involuntary admissions (IA) pursuant to RSA 135-C:34–54.

(c) At the time of admission, the licensee shall provide a written copy to the client and the guardian or agent, if any, or personal representative, and receive written verification of receipt for the following:

- (1) An admissions contract including the following information:
 - a. The basic daily or weekly fee;
 - b. A list of the core services required by He-P 830.14(c) that are covered by the basic fee;
 - c. The APRTP's house rules;
 - d. The APRTP's responsibility for client discharge planning;
 - e. The licensee's policies and procedures regarding:
 1. Arranging for the provision of transportation;
 2. Handling of client funds pursuant to RSA 151:24 and He-P 830.14(p);
 3. Storage and loss of the client's personal property; and

4. Smoking; and

f. The licensee's medication management services;

(2) A copy of the most current version of the patients' bill of rights under RSA 151:21 and the APRTP's policy and procedure for implementing the bill of rights pursuant to RSA 151:20, II;

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

(4) Information on advanced directives;

(5) Whether or not personnel are trained in cardiopulmonary resuscitation (CPR), first aid or both; and

(6) A copy of the facility's policy on restraint usage.

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

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

(1) The client's medical or other needs exceed the services offered by the licensee;

(2) The client cannot be safely evacuated in accordance with RSA 153:1, VI-a, except as modified in Saf-Fmo 300;

(3) For lack of payment for care rendered; or

(4) For documented non-compliance with the facility's rules included in the admission agreement provided said rules are not in conflict with RSA 151:21, V.

(f) The licensee shall develop a discharge plan with the input from the client, guardian, agent, or surrogate decision maker, if any.

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

(1) The most recent client assessment tool, treatment plan, and quarterly progress notes;

(2) The most recent nursing assessment, if applicable;

(3) The most recent multi-disciplinary treatment plan, if applicable;

(4) Current medication records; and

(5) A licensed practitioner's order for transfer, if applicable.

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

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

He-P 830.16 Required Services.

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

- (1) Is responsible for the day-to-day operations of the PRTP;
- (2) Meets the requirements of He-P 830.18(j); and
- (3) Designates, in writing, an alternate administrator who shall assume the responsibilities of the administrator in his or her absence; and
- (4) In the event the administrator will be absent for a period to exceed 30 consecutive days, the facility shall notify the department who the interim administrator will be and submit credentials to verify he or she meets the requirements of (2) above.

(b) Upon admission or within 24 hours following admission, the APRTP shall perform a comprehensive intake assessment of each client's needs and develop a preliminary treatment plan.

(c) The comprehensive intake assessment required by (b) above shall include, at a minimum, the following:

- (1) A mental health status examination and medication review;
- (2) An initial diagnostic impression;
- (3) Safety risk assessment and presence or absence of communicable disease;
- (4) A functional assessment of those specific skills and behaviors required for the client to be in a less restrictive setting;
- (5) A statement by the treating licensed practitioner that the PRTP represents the appropriate level of treatment for the client;
- (6) Serve as a basis for treatment plan;
- (7) Historical and current information and assessments; and
- (8) Medical, psychiatric, and social information containing the following:

a. For medical information:

1. A statement of the individual's general physical health status;
2. Medical history, including current weight, height, blood pressure, pulse, and smoking status;
3. When applicable, medical diagnosis, and the results or any medical or neurological screenings, examinations, or tests; and
4. The name and contact information for the individual's primary care physician;

b. For psychiatric information:

1. History of mental illness or serious emotional disturbance, including onset and severity;
2. Previous services and treatments, including medications and hospitalizations;

3. Individual's strengths;
4. Illness self-management skills;
5. Precipitating events for current psychiatric symptoms, as applicable;
6. Documentation of medical necessity for services;
7. Current diagnosis;
8. Medication orders;
9. Current medications; and
10. Results of formalized psychiatric or psychological tests, if applicable;

c. For social information:

1. Developmental history;
2. Educational history and current status, if applicable;
3. Family history and current family status;
4. History and current family status;
5. History of trauma, including domestic violence;
6. Results of a substance use screening tool;
7. Employment history including work skills and types, and lengths of employment;
8. Military history and veteran's status, if applicable;
9. Current living situation including type of environment and nature of relationship with any room/house mates or family;
10. Social and leisure time activities and skills;
11. Ability to develop and maintain friendships;
12. Involvement with or history of involvement with other social service agencies or the criminal justice system;
13. Guardianship, if applicable: and
14. Other legal documents.

(d) The intake assessment and updates shall be signed and dated by the person completing the assessment.

(e) A treatment plan shall:

- (1) Be completed within 24 hours of the comprehensive assessment in (c) above;
- (2) Be updated following the completion of each future assessment;

- (3) Be made available to personnel who assist clients in the implementation of the plan; and
- (4) Address the needs identified by the comprehensive assessment.

(f) The licensee shall provide each client, or their agent, the opportunity to participate in the development of the treatment plan.

(g) The treatment plan required by (e) above, shall contain, at a minimum, the following:

- (1) The date the problem or need was identified;
- (2) A description of the problem or need; Edit: comma
- (3) The objectives ~~which shall be measurable, attainable, realistic~~ and timely;
- (4) The interventions, which shall be specifically provided on behalf of the program to the clients;
- (5) The client's clinical needs, treatment goals, and objectives;
- (6) The client's strengths and resources for achieving goals and objectives as identified in (3) above;
- (7) The strategy for providing services to meet those needs, goals, and objectives;
- (8) The specification and description of the indicators to be used to assess the client's progress;
- (9) The date of re-evaluation, review, or resolution;
- (10) Psychiatric evaluation, including mental status and alcohol/substance abuse evaluations, as determined necessary by the treating licensed practitioner;
- (11) Individual and group therapeutic activity directed towards stabilization of psychiatric crises or extended care; and Edit: Delete.
- (12) Family education, consultation, and therapy, as clinically indicated; and
- (12) For children or youth clients, the determination made by a licensed practitioner, that the child or youth client is eligible for PRTF level of care.

(h) The treatment plan shall be reviewed at least every 30 days or as medically indicated.

(i) For each client, progress notes shall be written daily and include at a minimum:

- (1) Any treatment plan goals addressed;
- (2) Changes in the client's physical and mental status, as applicable;
- (3) Changes in behavior, such as eating habits, sleeping pattern, and relationships; and
- (4) Summary of protective care that has been provided.

(j) At the time of a client's admission, the licensee shall ensure that orders from a licensed practitioner are obtained for medications, and that special dietary requirements are documented.

(k) All personnel shall follow the orders of the licensed practitioner for each client and encourage clients to follow the practitioner's orders.

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

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

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

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

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

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

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

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

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

- (1) Full name and the name the client prefers, if different;
- (2) Name, address and telephone number of the client's next of kin, guardian or agent, if any;
- (3) Diagnosis;
- (4) Medications, including last dose taken and when the next dose is due;
- (5) Allergies;
- (6) Functional limitations;

- (7) Date of birth;
 - (8) Insurance information;
 - (9) Advanced directives including DNR or DNAR orders, if applicable; and
 - (10) Any other pertinent information not specified in (1)-(9) above.
- (s) Services shall be age and developmentally appropriate.
- (t) PRTP's shall offer psychotherapeutic services.
- (u) Individual psychotherapy shall:
- (1) Include therapy, crisis intervention, or assessment and monitoring necessary to determine the course and progress of therapy or to stabilize an individual experiencing an acute psychiatric episode; and
 - (2) Be verbal, with the therapist in direct, personal, involvement with the resident to the exclusion of other residents, individuals, and duties.
- (v) Group psychotherapy, per person, shall include therapy or assessment and monitoring necessary to determine the course and progress of therapy that is performed in a direct, personal involvement with the resident in a setting with other residents or individuals.
- (w) Group psychotherapy shall meet the following criteria:
- (1) Limit clinical groups to no more than 8 individuals with one licensed counselor present and no more than 12 individuals when that licensed counselor is joined by a second licensed counselor;
 - (2) Sessions shall be scheduled often enough to provide effective treatment;
 - (3) The group focus shall be face to face dialogue of a verbal rather than performance nature; and
 - (4) Individual progress notes for each session shall be recorded in each recipient's record with specific attention directed toward goal achievement as stated in the resident's treatment plan.
- (x) Family therapy shall be:
- (1) The resident and their natural or surrogate family member(s); or
 - (2) The natural or surrogate family member(s) without the resident present.

He-P 830.17 Medication Services.

- (a) All medications and treatments shall be administered in accordance with the orders of the licensed practitioner.
- (b) Medications, treatments, and diets ordered by the licensed practitioner shall be available to give to the client within 24 hours of the order or in accordance with the licensed practitioner's direction.
- (c) The licensee shall have a written policy and system in place instructing how to:
- (1) Obtain any medication ordered for immediate use at the PRTP;

- (2) Reorder medications for use at the PRTP; and
- (3) Receive and record new medication orders.

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

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

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

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

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

- (1) The client'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 pro re nata (PRN) medications;
- (5) The date ordered;
- (6) The name of the prescribing licensed practitioner; and
- (7) The expiration date of the medication(s).

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

(i) The label of all medication containers maintained in the PRTP shall match the current written orders of the licensed practitioner unless authorized by (l) below.

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

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

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

- (1) The original container shall be clearly and distinctly marked, for example, with a colored sticker that does not cover the pharmacy label, in a manner consistent with the PRTP's written procedure, indicating that there has been a change in the medication order;
 - (2) Personnel shall cross out the previous order on the daily medication record, indicating that the dose has been changed, and write the new order in the next space available on the medication record; and
 - (3) The change in dosage, without a change in prescription label as described in (1) and (2) above, shall be allowed for a maximum of 90 days from the date of the new medication order or until the medications in the marked container are exhausted or, in the case of PRN medications, until the expiration date on the container, whichever occurs first.
- (m) Telephone orders shall be counter-signed by the licensed practitioner within 15 days of receipt.
- (n) Over-the-counter medications shall be handled in the following manner:
- (1) The licensee shall obtain written approval from the client's licensed practitioner annually; and
 - (2) Over-the-counter medication containers shall be marked with the name of the client using the medication and taken in accordance with the directions on the medication container or as ordered by a licensed practitioner.
- (o) The medication storage area shall be:
- (1) Locked and accessible only to authorized personnel;
 - (2) Clean and organized with adequate lighting to ensure correct identification of each client's medication(s); and
 - (3) Equipped to maintain medication at the proper temperature.
- (p) All medication at the PRTP shall be kept in the original containers as dispensed by the pharmacy and properly closed after each use.
- (q) 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.
- (r) Schedule II substances, as defined by RSA 318-B, shall be kept in a separately locked compartment within the locked medication storage area accessible only to authorized personnel.
- (s) The licensee shall develop and implement written policies and procedures regarding a system for maintaining counts of controlled drugs.
- (t) Except as required by (u) below, any contaminated, expired, or discontinued medication shall be destroyed within 30 days of the expiration date, the end date of a licensed practitioner's orders or the medication becoming contaminated, whichever occurs first.
- (u) Controlled drugs shall be destroyed only in accordance with state law and:
- (1) Be accomplished in the presence of at least 2 people; and
 - (2) Be documented in the record of the client for whom the drug was prescribed.

(v) When a client is going to be absent from the PRTP at the time medication is scheduled to be taken, the medication container shall be given to the client if the client is capable of self-administering medications.

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

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

(y) Except as described in (ab) below, medications shall only be administered by individuals authorized by law to administer medications in the PRTP.

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

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

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

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

(ac) Nursing assessment and evaluation for the purpose of reviewing medication compliance, educations, and symptomatology shall be completed.

(ad) Comprehensive medication assessment for those medications requiring specialized therapeutic monitoring shall:

- (1) Ensure that the required blood sample is drawn;
- (2) Ensure that the lab values are within established limits;
- (3) Record results; and
- (4) Ensure appropriate does is adjusted as needed.

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

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

(af) The licensee shall maintain a written record for each medication taken by the client at the PRTP that contains the following information:

- (1) Any allergies or allergic reactions to medications;
- (2) The medication name, strength, dose, frequency, and route of administration;

- (3) The date and the time the medication was taken;
- (4) The signature, identifiable initials and job title of the person who administers, supervises, or assists the client taking medication;
- (5) For PRN medications, the reason the client required the medication and the effect of the PRN medication; and
- (6) Documentation of any medication refusal or omission.

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

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

(ai) If multiple medication problems are identified during the department's annual survey or other investigations in which the safety of clients might be at risk, the department shall require the facility to obtain the routine services of a consultant pharmacist as a condition of continued licensure. This requirement shall be reviewed at the next inspection to determine if consultant pharmacy services shall continue to be required.

He-P 830.18 Personnel.

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

(b) In an acute setting or facilities approved for IEA's there shall be at least 2 staff members on duty at all times while clients are in the facility, one of whom shall be a registered nurse.

(c) A psychiatrist shall be available to the PRTP 24 hours a day for face-to-face consultation.

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

- (1) Obtain and review a criminal records check from the New Hampshire department of safety in accordance with RSA 151:2-d;
- (2) Review the results of the criminal records check in accordance with (e) below;
- (3) Verify that the potential employee is not listed on the state registry maintained by the department's bureau of elderly and adult services in accordance with RSA 161-F:49;
- (4) Verify that the applicant meets the qualifications of the position prior to employment; and
- (5) If the applicant will be employed by a child or youth program, verify that the potential employee is not listed in the DCYF central registry.

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

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

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

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

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

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

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

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

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

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

(2) Grant a waiver of (d) above if, after investigation, it determines that the person does not pose a current threat to the health, safety, or well-being of a client(s).

(h) The licensee shall:

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(1) Not employ, contract with, or engage any person in (d) above who is listed on the BEAS state registry or DCYF central registry unless a waiver is granted by BEAS and/or DCYF;

(2) Only employ, contract with, or engage board of nursing licensees who are listed on the nursing assistant registry or licensing site with the NH board of nursing or are licensed with a reciprocal multi-compact state.

(i) Administrators appointed after the 2021 effective date of these rules shall be at least 21 years of age and have a minimum of one of the following combinations of education and experience:

(1) A clinician licensed by the New Hampshire board of mental health or board of psychology practice with at least one year of relevant experience;

(2) A master's degree in counseling, psychology, or mental health from an accredited institution and 3 years of relevant experience;

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(3) A bachelor's degree in counseling, psychology or mental health from an accredited institution and 5 years of relevant experience working in a behavioral health related field;

(4) A New Hampshire license as an RN, with at least five year of relevant experience working in a behavioral health related field; or

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(5) A degree which would make them eligible for licensure from the board of mental health or psychology.

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

- (1) A licensed nursing assistant working under the supervision of a nurse in accordance with Nur 700; or
- (2) Involved in an established educational program working under the supervision of a licensed clinical supervisor.

(k) All personnel providing care to children and youth shall be at least 21 years of age if working as a direct care personnel.

(l) The licensee shall inform personnel of the line of authority at the PRTF.

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

- (1) Submit to the licensee the results of a physical examination or a health screening performed by a licensed nurse or licensed practitioner and submit results of a 2-step tuberculosis (TB) test, Mantoux method, or other method approved by the Centers for Disease Control, both conducted not more than 12 months prior to employment, contract, or engagement;
- (2) Be allowed to work while waiting for the results of the second step of the TB test when the results of the first step are negative for TB; and
- (3) Comply with the requirements of the Centers for Disease Control “Guidelines for Preventing the Transmission of *M. tuberculosis* in Health-Care Settings” (2005 edition), available as noted in Appendix A, if the individual has either a positive TB test, or has had direct contact or potential for occupational exposure to *M. tuberculosis* through shared air space with persons with infectious tuberculosis.

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

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

- (1) The clients’ rights in accordance with RSA 151:20;
- (2) The PRTF’s complaint procedures;
- (3) The duties and responsibilities of the position;
- (4) The medical emergency procedures;
- (5) Education focused on treating and caring for residents with acute and persistent mental illness;
- (6) The emergency and evacuation procedures;
- (7) The infection control procedures as required by He-P 830.21;
- (8) The facility confidentiality requirements;

- (9) Grievance procedures for both staff and clients;
 - (10) The procedures for food safety for personnel involved in preparation, serving, and storing of food; and
 - (11) The mandatory reporting requirements including RSA 161-F:46 and RSA 169-C:29.
- (p) The licensee shall provide all personnel with an annual continuing education or in-service education training, which at a minimum contains the following:
- (1) The licensee's clients' rights and complaint procedures required under RSA 151;
 - (2) The licensee's infection control program;
 - (3) The licensee's written emergency plan;
 - (4) The licensee's policies and procedures;
 - (5) The mandatory reporting requirements including RSA 161-F:46 and RSA 169-C:29; and
 - (6) Education on treating and caring for residents with acute and persistent mental illness.
- (q) The PRTP shall maintain a separate employee file for each employee, which includes the following:
- (1) A completed application for employment or a resume;
 - (2) Proof that the individual meets the minimum age requirements;
 - (3) A statement signed by each individual that he or she has received a copy of and received training on the implementation of the licensee's policy setting forth the clients rights and responsibilities as required by RSA 151:21;
 - (4) A copy of the results of the criminal record check as described in (d) above and a copy of initial and annual signed conviction statement per He-P 830.18(r);
 - (5) A job description signed by the individual that identifies the:
 - a. Position title;
 - b. Qualifications and experience; and
 - c. Duties required by the position;
 - (6) Record of satisfactory completion of the orientation program required by (q) above;
 - (7) Information as to the general content and length of all in-service or educational programs attended;
 - (8) Record of satisfactory completion of all required education programs required above;
 - (9) A copy of a current, valid driver's license, including proof of insurance, if the employee transports clients;
 - (10) Documentation that the required physical examinations, health screenings, TB test results, and radiology reports of chest x-rays, if required, have been completed by the appropriate health professionals;

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

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

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

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

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

(s) Personnel records shall be maintained in a confidential manner by:

(1) Maintaining a separate file for each employee which shall contain information relating only to that employee; and

(2) Storing the file in a locked container or cabinet in the facility.

(t) All personnel shall sign a statement at the time the initial offer of employment is made and then annually thereafter stating that they:

(1) Do not have a felony conviction in this or any other state;

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(2) Have not been convicted of a sexual assault, other violent crime, assault, fraud, abuse, neglect, or exploitation, or pose a threat to the health, safety or well-being of a client; or

(3) Have not had a finding by the department or any administrative agency in this or any other state for assault, fraud, abuse, neglect, or exploitation of any person.

(u) For individuals with the waiver described in (f) above, the statement required by (s) above shall cover the period of time since the waiver was granted.

(v) An individual shall not be required to re-disclose any of the matters in (r) above if the documentation is available and the department has previously reviewed the material and determined that the individual can continue employment.

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

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

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

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

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

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

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

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

He-P 830.19 Client Records.

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

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

- (1) A copy of the client's service agreement and/or admission contract and all documents required by He-P 830.16(d);
- (2) Identification data, including:
 - a. Vital information including the client's name, date of birth, and marital status;
 - b. Client's religious preference, if known;
 - c. Client's veteran status, if known;
 - d. Name, address, and telephone number of an emergency contact person;
- (3) The name and telephone number of the client's licensed practitioner(s);
- (4) The client's health insurance information;
- (5) Copies of any executed legal orders and directives, such as guardianship orders issued under RSA 464-A, a durable power of attorney for healthcare, or a living will and DNR or DNAR orders, if applicable;

- (6) A record of medical clearance in accordance with He-P 830.16(n);
 - (7) Written, dated and signed orders for the following:
 - a. All medications, treatments, and special diets, as applicable; and
 - b. Laboratory services and consultations performed at the PRTP;
 - (8) Results of any laboratory tests, X-rays, or consultations performed at the PRTP;
 - (9) All assessments and treatment plans, including documentation that the client and the guardian or agent, if any, has participated in the development of the treatment plans;
 - (10) All admission and progress notes, including any use of restraints;
 - (11) If services are provided at the PRTP by individuals not employed by the licensee, documentation that includes the name of the agency providing the services, the date services were provided, the name of the person providing services, and a brief summary of the services provided;
 - (12) Documentation of any alteration in the client's daily functioning such as:
 - a. Signs and symptoms of illness; and
 - b. Any action that was taken including practitioner notification;
 - (13) Documentation of any medical or specialized care;
 - (14) Documentation of unusual incidents;
 - (15) The consent for release of information signed by the client, guardian, or agent, if any;
 - (16) Discharge planning and referrals;
 - (17) Transfer or discharge documentation, including notification to the client, guardian, or agent, if any, of involuntary room change, transfer or discharge, if applicable;
 - (18) The information required by He-P 830.17(ad) as applicable;
 - (19) The information data sheet required by He-P 830.16(o) and (p);
 - (20) Documentation of nurse delegation of medications as required by the nurse practice act, as applicable;
 - (21) Documentation of a client's refusal of any care or services; and
 - (22) The licensee shall arrange for and document the immunization of all consenting clients for pneumococcal disease, as applicable, and all consenting clients for influenza in accordance with RSA 151:9-b and report immunization data to the department's immunization program.
- (c) Client records and client information shall be kept confidential and only provided in accordance with law.
- (d) The licensee shall develop and implement a written policy and procedure document that specifies the method by which release of information from a client's record shall occur. For all substance abuse

rehabilitation facilities, this shall include compliance with 42 CFR Subpart 2C of the Centers for Medicare and Medicaid Services regulations.

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

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

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

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

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

He-P 830.20 Food Services.

(a) The licensee shall provide food services that meet:

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

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

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

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

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

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

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

(h) All food and drink provided to the clients shall be:

- (1) Safe for human consumption and free of spoilage or other contamination;

- (2) Stored, prepared, and served in a manner consistent with safe food handling practices for the prevention of food borne illnesses, including those set forth in He-P 2300;
- (3) Served at the proper temperatures;
- (4) Labeled, dated, and stored at proper temperatures; and
- (5) Stored to protect it from dust, insects, rodents, overhead leakage, unnecessary handling, and all other sources of contamination.

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(i) 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.

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

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

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

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

(n) Food service areas shall not be used to empty bedpans or urinals or as access to toilet and utility rooms.

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

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

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

He-P 830.21 Infection Control.

(a) The PRTP 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 standard precautions, as specified by the United States Centers for Disease Control and Prevention "2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings" (June 2007), available as noted in Appendix A;

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

(4) The handling, storage, transportation and disposal of those items identified as infectious waste in Env-Sw 103.28 and regulated by Env-Sw 904;

(5) The reporting of infectious and communicable diseases as required by He-P 301; and

- (6) Maintenance of a sanitary physical environment.
- (c) The infection control education program shall address:
 - (1) Causes of infection;
 - (2) Effects of infections;
 - (3) Transmission of infections; and
 - (4) Prevention and containment of infections.
- (d) Personnel infected with a disease or illness transmissible through food, fomites or droplets, shall not work in food service or provide direct care in any capacity without personal protection equipment to prevent disease transmission until they are no longer contagious.
- (e) Personnel infected with scabies or lice shall not provide direct care to clients or work in food services until such time as they are no longer infected.
- (f) Pursuant to RSA 141-C:1, personnel with a newly positive tuberculosis test or a diagnosis of suspected active pulmonary or laryngeal tuberculosis shall be excluded from the PRTP until a diagnosis of tuberculosis is excluded or until the person is receiving tuberculosis treatment and has been determined to be noninfectious by a licensed practitioner.
- (g) Personnel with an open wound who work in food service or provide direct care in any capacity shall cover the wound at all times by an impermeable, durable, tight fitting bandage.
- (h) Each licensee caring for clients with infectious or contagious diseases shall have available appropriate isolation accommodations, equipment, rooms, and personnel as specified by:
 - (1) The United States Centers for Disease Control and Prevention “2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings,” (June 2007), available as listed in Appendix A; and
 - (2) The Facility Guidelines Institute’s (FGI) “Guidelines for Design and Construction of Hospitals” (2018 Edition) available as noted in Appendix A.
- (i) The PRTP shall develop and implement a Point of Care Testing (POCT) policy, if it provides POCT that educates and provides procedures for the proper handling and use of POCT devices, as well as prevention, control, and investigation of infectious and communicable diseases.

He-P 830.22 Sanitation.

- (a) The licensee shall maintain a clean, safe and sanitary environment, both inside and outside.
- (b) The furniture, floors, ceilings, walls, and fixtures shall be clean, sanitary and in good repair.
- (c) A supply of potable water shall be available for human consumption and food preparation.
- (d) A supply of hot and cold running water shall be available at all times and precautions, such as temperature regulation, shall be taken to prevent a scalding injury to the clients.
- (e) Hot water shall be of a high enough temperature to ensure sanitation and food safety when used for laundry and food preparations, as required in the FGI “Guidelines for the Design and Construction of ~~Hospitals Residential Health, Care, and Support Facilities~~” (2018 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.

~~(1) Seventy 120 degrees Fahrenheit for clinical areas, representing the minimum and maximum allowable temperatures;~~

~~(2) One hundred and forty degrees Fahrenheit for dietary areas, except that provisions shall be made to provide 180 degrees Fahrenheit rinse water at the warewasher, which may be by separate booster, unless a chemical rinse is provided; and~~

~~(3) One hundred and forty 160 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 which meets the designed water temperatures specified by the manufacturer.~~

(f) All client bathing and toileting facilities shall be cleaned and disinfected as often as necessary to prevent illness or contamination.

(g) Cleaning solutions, compounds and substances considered hazardous or toxic materials, as defined in RSA 147-A:2, VII, shall be distinctly labeled and legibly marked so as to identify the contents and stored in a place, such as a locked box, separate from food, medications and client supplies.

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

(i) Only individuals authorized under RSA 430:33 shall apply pesticides, as defined by RSA 430:29, XXVI, in food storage, food preparation or dining areas.

(j) Solid waste, garbage and trash shall be stored in a manner to make it inaccessible to insects and rodents, outdoor animals, and facility pets.

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

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

(m) Laundry and laundry rooms shall meet the following requirements:

(1) Laundry and laundry rooms shall be kept separate from kitchen and dining areas;

(2) Clean linen shall be stored in a clean area and shall be separated from soiled linens at all times;

(3) Soiled materials, linens and clothing shall be transported in a laundry bag, sack or container and washed in a sanitizing solution used in accordance with the manufacturer's recommendations; and

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

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

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

(p) Any PRTP 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.

He-P 830.23 Quality Improvement.

(a) The PRTP shall develop and implement a quality improvement program that review policies and services and maximizes quality by preventing or correcting identified problems.

(b) As part of its quality improvement program, a quality improvement committee shall be established.

(c) The PRTP shall determine the size and composition of the quality improvement committee based on the size of the facility and the care and services provided.

(d) The quality improvement 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 PRTP; and

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

(e) The quality improvement committee shall meet at least quarterly.

(f) The quality improvement committee shall generate dated, written minutes after each meeting.

(g) Documentation of all quality improvement activities, including minutes of meetings, shall be maintained on-site for at least 2 years from the date the record was created.

He-P 830.24 Physical Environment.

(a) The physical environment shall be maintained, inside and outside, to provide for the health, safety, well-being and comfort of client(s) and personnel, including reasonable accommodations for clients and personnel with mobility limitations.

(b) The PRTP shall:

- (1) Have all emergency entrances and exits accessible at all times;
 - (2) Be maintained in good repair and kept free of hazards to personnel and residents, including but not limited to hazards from falls, burns, or electric shocks;
 - (3) Be 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 be 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 an PRTP including, but not limited to, gas furnace or boiler, oil furnace or boiler, wood stove or pellet stove shall:
- (1) Maintain a temperature as follows, except where clients have control of the thermostat in their own room:
 - a. Be at least 65 degrees Fahrenheit at night; and
 - b. Be at least 70 degrees Fahrenheit during the day if the client(s) are present; and
 - (2) Be serviced once a year or as recommended by the manufacturer with written documentation of such service retained for at least 4 years.
- (d) Electric heating systems shall be exempt from (b)(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) Unvented fuel-fired heaters shall not be used in any PRTP.
- (g) Plumbing shall be sized, installed, and maintained in accordance with the International Plumbing Code, as specified in the state building code under RSA 155-A:1, IV, as amended by the building code review board pursuant to RSA 155:A:10,V.
- (h) Ventilation shall be provided in all enclosed living areas by means of a mechanical ventilation system or one or more screened windows that can be opened.
- (i) Each client bedroom shall have natural lighting provided by at least one operable window with a screen to the outside, which is of a size equivalent to or greater than 8% of the room's gross square footage or comparable artificial lighting.

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

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

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

(m) In a PRTP there shall be at least 100 square feet per room with a single bed and 160 (80 square feet per client) square feet per room with 2 beds, exclusive of space required for closets, wardrobe, and toilet facilities.

(n) Each bedroom shall:

(1) Contain no more than 2 beds;

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

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

(4) Not be used simultaneously for other purposes;

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

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

(7) If a licensed bedroom is temporarily being utilized for another purpose, it shall retain the capability of being restored to meet the requirements of a licensed bedroom within 24 hours and without requiring additional construction or renovation.

(o) The licensee shall provide the following for the clients' use, as needed, unless clinically indicated otherwise:

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

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

(3) Clean linens, blankets and a pillow;

(4) A bureau;

(5) A mirror;

(6) A bedside table;

(7) Adequate lighting;

(8) A chair;

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

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

Edit. "FMO."

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

(q) The licensee at a minimum shall provide the following rooms to meet the needs of clients:

- (1) One or more living rooms or multi-purpose rooms; and
- (2) Dining facilities with a seating capacity capable of meeting the needs of all clients.

(r) For PRTP licensees who will be involuntarily admitting persons a secure environment shall be provided. This may include the use of restraints in personal safety emergencies, as permitted by RSA 151:21.

(s) Doors on locked units shall comply with He-P 830.24(z).

(t) If a client is determined to be a danger to themselves or others per the assessment in He-P 830.16(c), the licensee must comply with the Facility Guideline Institute (FGI), "Guidelines for Design and Construction of Hospitals" ~~Psychiatric Chapter~~ (2018 edition) with regard to protection features, available as noted in Appendix A.

(u) Each area should be evaluated to identify the architectural details, surfaces, and furnishings and exposed mechanical and electrical devices and components in areas where clients might be such as:

- (1) Seclusion rooms;
- (2) Patient bedrooms and toilet rooms;
- (3) An area under good supervision but dealing with unpredictable patients under initial evaluation and if under heavy medication;
- (4) Activity spaces, group rooms, and treatment spaces;
- (5) Dining rooms and recreation spaces, both indoor and outdoor;
- (6) Corridors;
- (7) Exam rooms; and
- (8) Staff and support areas if accessible by clients.

(v) Each licensee shall have a communication system, such as nurse call, so that all clients can effectively contact personnel when they need assistance with care or in an emergency.

(w) Lighting shall be available to allow clients to participate in activities such as reading.

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

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

(z) If present, seclusion rooms, shall, at a minimum be:

- (1) Equipped with an observation window;
- (2) Only for one client at a time;

- (3) Under constant observation when clients or others are present in them; and
- (4) Locked only under the following conditions:
 - a. If there is immediate threat of bodily harm to staff or other clients; and
 - b. If the reason for locking the seclusion room is documented in the client record.

(aa) Any locked door providing egress from within the PRTP, shall meet the requirements of the Residential Board and Care or Health Care Occupancy chapter, whichever chapter the facility was designed to meet based on the resident's needs, of NFPA 101, as adopted by reference in RSA 153:1, VI-a, except as modified in Saf-Fmo 300.

Edit. "FMO."

He-P 830.25 Fire Safety.

(a) All PRTPs shall meet the appropriate occupancy chapter of NFPA 101, as adopted by reference in RSA 153:1, VI-a, except as modified in Saf-Fmo 300, based on the scope of services provided by the licensee.

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

- (1) Smoke detectors on every level and in every bedroom that are interconnected and either hardwired, powered by the PRTP's electrical service, or wireless, as approved by the state fire marshal for the PRTP;
- (2) At least one UL Listed, ABC type portable fire extinguisher, with a minimum rating of 2A-10BC installed on every level of the building with a maximum travel distance to each extinguisher not to exceed 50 feet and maintained as follows:
 - a. Fire extinguishers shall be inspected either manually or by means of an electronic monitoring device or system at least once per calendar month, at intervals not exceeding 31 days;
 - b. Records for manual inspection, or electronic monitoring shall be kept to demonstrate that at least 12 monthly inspections have been performed;
 - c. Annual maintenance shall be performed on each extinguisher by trained personnel, and a tag or label shall be securely attached that indicates that maintenance was performed; and
 - d. The components of the electronic monitoring device or system in a. above, if used, shall be tested and maintained annually in accordance with the manufacturers listed maintenance manual; and

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

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

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

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

- (1) The date and time of the incident;
- (2) A description of the location and extent of the incident, including any injury or damage;
- (3) A description of events preceding and following the incident;
- (4) The name of any personnel or clients who were evacuated as a result of the incident, if applicable;
- (5) The name of any personnel or clients who required medical treatment as a result of the incident, if applicable; and
- (6) The name of the individual the licensee wishes the department to contact if additional information is required.

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

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

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

(h) Fire drills shall be conducted as follows:

Edit: hyphen

- (1) For buildings constructed to the residential board and care or one[^]and two[^]family dwelling chapters of the life safety code (NFPA 101), the following shall be required:
 - a. The administration of every residential board and care facility shall have, in effect and available to all supervisory personnel, written copies of a plan for protecting all persons in the event of fire, for keeping persons in place, for evacuating persons to areas of refuge, and for evacuating persons from the building when necessary;
 - b. Clients shall be trained to assist each other in case of fire or emergency to the extent that their physical and mental abilities permit them to do so, without additional personal risk;
 - c. All PRTP facilities shall conduct fire drills not less than 6 times per year on a bimonthly basis, with not less than 2 drills conducted during the night when clients are sleeping. Actual exiting from windows shall not be required, however opening the window and signaling for help shall be an acceptable alternative;
 - d. The drills shall involve the actual evacuation of all clients to an assembly point, as specified in the emergency plan, and approved by the department and the local fire authority based on construction of the building and shall provide clients with experience in egressing through all exits and means of escape, except as noted in c. above;
 - e. Facilities shall complete a written record of fire drills that include the following:

1. The date and time, including AM/PM, the drill was conducted and if the actual fire alarm system was used;
2. The location of exits used;
3. The number of people, including clients, personnel, and visitors, participating at the time of the drill;
4. The amount of time taken to completely evacuate the facility;
5. The name and title of the person conducting the drill;
6. A list of problems and issues encountered during the drill;
7. A list of improvements and resolution to the issues encountered during the fire drill; and
8. The names of all staff members participating in the drill;

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

g. At admission, the facility shall conduct a client Fire Safety Evacuation Scoring System (FSES) as listed in NFPA 101A, Alternatives to Life Safety, to determine the clients' needs during a fire drill including mobility, assistance to evacuate, staff needed, risk of resistance, clients' ability to evacuate on his or her own, and choosing an alternate exit; and

h. The fire drills for facilities built to the residential board and care chapter of the life safety code (NFPA 101), shall be permitted to be announced, in advance, to the clients just prior to the drill; and

(2) For PRTPs originally constructed to the health care occupancy chapter of the life safety code and to the codes, rules and regulations adopted and enforced by the state fire marshal's office and/or the municipality, or which have been physically evaluated, rehabilitated, and approved by a New Hampshire licensed engineer qualified in fire protection, the state fire marshal's office, and the department pursuant to He-P 830.07, to meet the health care occupancy chapter, the following shall be required:

- a. The facility shall develop a fire safety plan, which provides for the following:
 1. Use of alarms;
 2. Transmission of alarms to fire department;
 3. Emergency phone call to fire department;
 4. Response to alarms;
 5. Isolation of fire;
 6. Evacuation of immediate area;
 7. Evacuation of smoke compartment;

8. Preparation of floors and building for evacuation;

9. Extinguishment of fire; and

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

b. Fire drills shall be conducted quarterly on each shift to familiarize facility personnel such as medical personnel, maintenance engineers, and administrative staff with the signals and emergency action required under varied conditions;

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

Edit. "FMO."

d. Buildings that have a shelter-in-place plan, also known as defend-in-place plan, shall have this plan approved by the department per the state fire code, as adopted pursuant to RSA 153:1, VI-a and amended in Saf-Fmo 300 by the fire marshal with the board of fire control, pursuant to RSA 153:5, and their local fire chief and shall be constructed to meet the health care occupancy chapter of the life safety code;

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

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

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

1. The date and time, including AM/PM, the drill was conducted and if the actual fire alarm system was used;

2. The location of exits used;

3. The number of people, including clients, personnel, and visitors, participating at the time of the drill;

4. The amount of time taken to completely evacuate the facility to an approved area of refuge or through a horizontal exit;

5. The name and title of the person conducting the drill;

6. A list of problems and issues encountered during the drill, if any;

7. A list of improvements and resolution to the issues encountered during the fire drill; and

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

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

(i) Storage and use of oxygen cylinders or systems shall comply with NFPA 99, Health Care Facilities Code.

Unclear/Legis. Intent. To the extent that NFPA is not part of an incorporated code, it appears to require an IRS, inclusion in Appendix A, and a reference in the rule to the Appendix.

Edit. "shall"

He-P 830.26 Emergency Preparedness.

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

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

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

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

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

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

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

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

- (1) Include site-specific plans for the protection of all persons on-site in the event of fire, natural disaster, severe weather or human-caused emergency such as missing residents and bomb threats;
- (2) Be approved by the local emergency management director and reviewed and approved, as appropriate, by the local fire department;
- (3) Be available to all personnel;
- (4) Be based on realistic conceptual events;
- (5) Be modeled on the ICS in coordination with local emergency response agencies;
- (6) Provide that all personnel designated or involved in the emergency operations plan of the facility shall be supplied with a means of identification, such as vests, baseball caps, or hard hats, which shall be worn at all times in a visible location during the emergency;
- (7) Develop and implement a strategy to prevent an incident that threatens life, property, and the environment of the facility;

(8) Develop and implement a mitigation strategy that includes measures to be taken to limit or control the consequences, extent, or severity of an incident that cannot be prevented;

(9) Develop and implement a protection strategy to protect life, property, and the environment from human caused incidents and events and from natural disasters;

(10) For (7)-(9) above, incorporate the findings of a hazard vulnerability assessment including the results of an analysis of impact, program constraints, operational experience, and cost-benefit analysis to provide strategies that can realistically be implemented without requiring undue expenses to the facility;

(11) Conduct a facility-wide inventory and review, to include the property that the facility is located on, to determine the status of hazards that may be incorporated into the prevention, protection, and mitigation strategies, and to determine the outcome of prior strategies at least annually;

(12) Include the facility's response to both short-term and long-term interruptions in the availability of utility service in the disaster or emergency, including establishing contingency plans for continuity of essential building systems or evacuation to include the following, as applicable:

- a. Electricity;
- b. Potable water;
- c. Non-potable water;
- d. Heating, ventilation, and air conditioning (HVAC);
- e. Fire protection systems;
- f. Fuel required for building operations to include fuel loss, fuel spill, and fuel exposure that creates a hazardous incident;
- g. Fuel for essential transportation to include fuel loss, fuel spill, and fuel exposure that creates a hazardous incident;
- h. Medical gas and vacuum systems, if applicable;
- i. Communications systems; and
- j. Essential services, such as kitchen and laundry services;

(13) Include a plan for alerting and managing staff in a disaster, and accessing CISM, if necessary;

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

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

c. How to provide security during the disaster;

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

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

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

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

(19) Each license shall:

a. Annually review and revise, as needed, its emergency plan;

b. Submit its emergency plan to the local emergency management director for review and approval when initially written and whenever the plan is revised; and

c. Maintain documentation on site which establishes that the emergency plan has been approved as required under (b) above.

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

a. It has a generator capable of supplying the entire facility;

b. It has sufficient personnel and food to meet the needs of both the clients and any evacuees; and

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

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

(1) Drills shall be monitored by at least one designated evaluator who has knowledge of the facility's plan and who is not otherwise involved in the drill;

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

(3) The facility shall conduct a debriefing session not more than 72 hours after the conclusion of the drill. The debriefing shall include all key individuals, including observers, administration, clinical staff, and appropriate support staff; and

(4) Exercises and actual events shall be critiqued to identify areas for improvement. The critique shall identify deficiencies and opportunities for improvement based upon monitoring

activities and observations during the exercise. Opportunities for improvement identified in critiques shall be incorporated in the facility’s improvement plan.

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

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

- a. Enough refrigerated, perishable foods for a 3-day period;
- b. Enough non-perishable foods for a 7-day period; and
- c. Potable water for a 3-day period;

(2) Designated storage location(s); and

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

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

- (1) It has a generator capable of supplying the entire facility;
- (2) It has sufficient personnel and food to meet the needs of both the clients and any evacuees; and
- (3) It makes arrangements to transfer the evacuee as soon as practicable if they learn after accepting the evacuee that they cannot meet his or her needs.

(j) The licensee shall annually review and revise, as needed, its emergency plan.

Appendix A

Rule	Title	Publisher; How to Obtain; and Cost
He-P 830.07(h) and (i); He-P 830.14(r)(2); He-P 830.21(h)(2); He-P 830.22(e); and He-P 830.24(t)	Facility Guidelines Institute’s (FGI) “Guidelines for Design and Construction of Hospitals” (2018 Edition)	Publisher: Facility Guidelines Institute (FGI) Cost: \$75.00/book or \$200.00/user, per year for subscription to website. The incorporated document is available for purchase at https://www.fgiguideines.org/guidelines/2018-fgi-guidelines/

Rule	Title	Publisher; How to Obtain; and Cost
He-P 830.14(r)(1) and He-P 830.21(b)(2); He-P 830.21(h)(1)	United States Centers for Disease Control and Prevention’s “2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings” (June 2007)	Publisher: United States Centers for Disease Control and Prevention Cost: Free of Charge The incorporated document is available at: https://www.cdc.gov/infectioncontrol/pdf/guidelines/isolation-guidelines-H.pdf
He-P 830.18(m)(3)	Centers for Disease Control and Prevention’s “Guidelines for Preventing the Transmission of <i>M. tuberculosis</i> in Health-Care Settings” (2005 Edition)	Publisher: Centers for Disease Control and Prevention Cost: Free of Charge The incorporated document is available at: https://www.cdc.gov/tb/publications/slidesets/infectionguidelines/default.htm
He-P 830.20(a)(1)	United States Department of Agriculture’s “Dietary Guidelines for Americans 2015-2020” (Eighth Edition)	Publisher: United States Department of Agriculture Cost: Free to the Public The incorporated document is available at: https://health.gov/dietaryguidelines/2015/resources/2015-2020_Dietary_Guidelines.pdf

APPENDIX B

Rule	Specific State or Federal Statutes the Rule Implements
He-P 830.01 – He-P 830.03	RSA 151:9, I(a) & (b)
He-P 830.04 – He-P 830.07	RSA 151:2, I & II; RSA 151:9, I
He-P 830.08	RSA 151:9, I(a)
He-P 830.09	RSA 151:9, I(e); RSA 151:6-a
He-P 830.10	RSA 151:9, I(a) & (b)
He-P 830.11	RSA 151:9, I(e); RSA 151:6
He-P 830.12	RSA 151:9, I(f), (g), (l), & (m)
He-P 830.13	RSA 151:9, I(f), (h), & (l)
He-P 830.14	RSA 151:9, I(a)
He-P 830.15 – He-P 830.25	RSA 151:9, I(a)
He-P 830.26	RSA 151:9, I(a)

Note to JLCAR on Legis. Intent: The rulemaking public hearing for this proposal was to be held on 2/9/21 as an in-person hearing and as a remote public hearing accessed by Microsoft Teams. RSA 541-A:11 appears to presume in-person hearings only, since it refers to postponements due to inclement weather and changing the location of a hearing, and the statute has never been interpreted to allow for remote hearings, with their additional requirements affecting access compared to in-person hearings. RSA 541-A:41 states that RSA 541-A governs all agency rulemaking hearings unless specifically excepted. The Department's He-C 205 on non-adjudicative public hearings also does not address any special procedures for participation in remote hearings. While the Governor's E.O. #12 amends RSA 91-A to allow for remote hearings, that does not apply to departments. However, as with prior remote hearings for other agencies, the JLCAR has examined this issue case-by-case to see how well the remote hearing worked. The JLCAR may wish to ask the Department how the remote portion of the hearing proceeded, since RSA 541-A:11, I(a) requires that an agency "shall afford all interested persons reasonable opportunity to testify...in accordance with the terms of the notice." A legislative fix may be needed in RSA 541-A:11, along with changes to all Chapter 200 rules, to clearly allow for remote rulemaking hearings. Please note that HB 630 proposes to amend RSA 91-A to include the protocols under E. O. #12 to hold remote meetings by public bodies.

NEW HAMPSHIRE DRAFTING AND PROCEDURE MANUAL

APPENDIX II-H

INCORPORATION BY REFERENCE STATEMENT

****PLEASE LIST THE FOLLOWING:**

1. Name of Agency. **Department of Health and Human Services (DHHS)**
2. Person who has reviewed the material to be incorporated into the agency's rules:

Name: **Doreen Shockley** Title: **Manager**
Address: **Dept. of Health & Human Services** Phone #: **271-9645**
Health Facilities Licensing Unit
129 Pleasant Street
Concord, NH 03301

3. Specific rule number where the material is incorporated:

He-P 830.07(h) and (i); He-P 830.14(r)(2); He-P 830.21(h)(2); He-P 830.22(e); and He-P 830.24

****PLEASE ATTACH THE FOLLOWING**, numbered to correspond to the number on this sheet (a separate sheet is not required for every item):

4. The complete title of the material which is to be incorporated including the date on which the material became effective (or a document identification number) or, if the material is undated Internet content, the date the material was accessed and printed, and the title of the entity that created or promulgated the material.

The title of the material to be incorporated is Facility Guideline Institutes (FGI) "Guidelines for Design and Construction of Hospitals" (2018 Edition).

5. How the agency modified the text of the material incorporated, clearly identifying where amendments have been made to the text.

Not applicable.

6. How the material incorporated can be obtained by the public (include cost and the address of the unrelated third party which published the material, and the Internet source URL if it appears in the rule, for example if the material is Internet content only available online).

Publisher: Facility Guidelines Institute (FGI)

Cost: \$75.00/book or \$200.00/user, per year for subscription to website.

The incorporated document is available for purchase at:

<https://www.fgiguideines.org/guidelines/2018-fgi-guidelines/>

7. Why the agency did not choose to reproduce the incorporated material in full in its rules. The discussion shall include more than the obvious reason that it is less expensive to incorporate by reference.

The information is subject to copyright restrictions.

NEW HAMPSHIRE DRAFTING AND PROCEDURE MANUAL

****PLEASE SIGN THE FOLLOWING:**

I, the adopting authority,* certify that the text of the material which the agency is incorporating by reference in these rules has been reviewed by this agency. To the best of my knowledge and belief, this agency has complied with the requirements of RSA 541-A:12, IV and Section 3.12 of Chapter 4 of the Drafting and Procedure Manual for Administrative Rules. I further certify that the agency has the capability and the intent to enforce the material incorporated into the rules, as identified above.

Date: 4/9/2021

Signature: Lori Shubinette

Name: Lori A. Shubinette

Title: Commissioner

*("Adopting authority" is the official empowered by statute to adopt the rule, or a member of the group of individuals empowered by statute to adopt the rule.)