

APPENDIX II-G

COVER SHEET FOR FINAL PROPOSAL

Notice Number **2021-123** Rule Number **He-P 309.01, He-P 309.02, and He-P 309.10**

<p>1. Agency Name &amp; Address:</p> <p><b>Dept. of Health &amp; Human Services Division of Public Health Services Infectious Disease Surveillance Section 29 Hazen Drive Concord, NH 03301</b></p>	<p>2. RSA Authority: <b>RSA 151:9, I(o)</b></p> <p>3. Federal Authority:</p> <p>4. Type of Action:</p> <p><input type="checkbox"/> Adopt</p> <p><input type="checkbox"/> Amendment (only if Initial Proposal was filed before 9/27/20.)</p> <p><input type="checkbox"/> Repeal</p> <p><input checked="" type="checkbox"/> Readoption</p> <p><input checked="" type="checkbox"/> Readoption w/amendment</p>
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5. Short Title: **Healthcare Associated Infections Reporting**

6. Contact person for copies and questions:

Name:	<b>Allyson Zinno</b>	Title:	<b>Administrator-Administrative Rules Unit</b>
Address:	<b>Dept. of Health &amp; Human Services Administrative Rules Unit 129 Pleasant Street, Brown Bldg. Concord, NH 03301</b>	Phone #:	<b>(603) 271-9604</b>

7. The rulemaking notice appeared in the Rulemaking Register on **December 9, 2021**

**SEE THE INSTRUCTIONS--PLEASE SUBMIT ONE COPY OF THIS COVER SHEET  
AND ONE COPY OF THE FOLLOWING:  
(optional to number correspondingly)**

8. The "Final Proposal-Fixed Text," including the cross-reference table required by RSA 541-A:3-a, II as an appendix.

9. Yes ☒ N/A ☐ Incorporation by Reference Statement(s) because this rule incorporates a document or Internet content by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.

10. Yes ☒ N/A ☐ The "Final Proposal-Annotated Text," indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(d).

11. Yes ☐ N/A ☒ The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

Notice Number

**2021-123**

Rule Number

**He-P 309.01,  
He-P 309.02, and He-P 309.10**

1. Agency Name & Address: <b>Dept. of Health &amp; Human Services          Division of Public Health Services          Infectious Disease Surveillance Section          29 Hazen Drive          Concord, NH 03301</b>	2. RSA Authority: <b>RSA 151:9, I(o)</b> 3. Federal Authority: _____ 4. Type of Action: Adoption _____ Repeal _____ Readoption <b>X</b> _____ Readoption w/amendment <b>X</b> _____
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5. Short Title: **Healthcare Associated Infections Reporting**

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

**RSA 151:33-35 requires hospitals, ambulatory surgical centers, and end stage renal disease dialysis centers to identify, track, and report Healthcare-Associated Infections (HAI). He-P 309 sets forth the reporting requirements for Central Line Associated Blood Stream Infections (CLABSI), Surgical Site Infections (SSI), Surgical Antimicrobial Prophylaxis (SCIP), and Influenza Vaccination Rates. He-P 309.01(e)-(y) and He-P 309.02(c) are currently interim rules and are scheduled to expire on April 21, 2022.**

**The Department of Health and Human Services (Department) is proposing to readopt He-P 309.01 on definitions and He-P 309.02 on reporting requirements. The Department is also proposing to readopt with amendment He-P 309.10 on surgical antimicrobial prophylaxis and intravenous antimicrobial administration by renaming the section heading to “intravenous antimicrobial administration” and deleting paragraphs (a) through (d) on surgical antimicrobial prophylaxis.**

**HB 131 from the 2021 legislative session (Chapter 79 of the Laws of 2021) removed the requirement of identifying, tracking, and reporting process measures as it relates to surgical antimicrobial prophylaxis (SCIP) data.**

**Surgical antibiotic prophylaxis data via SCIP has not been available since 2014 and are no longer a national quality measure. Going forward, New Hampshire hospitals would have to report this measure through a different mechanism to the Department, such as through an online survey. This measure has less utility and the Healthcare Associated Infection (HAI) program would like to focus efforts in working with facilities to collect more meaningful data to measure antibiotic resistance and stewardship.**

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

**These rules affect all hospitals, ambulatory surgical centers, and end stage renal disease dialysis centers licensed in accordance with RSA 151.**

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

<b>RULE</b>	<b>RSA/FEDERAL CITATION</b>
He-P 309.01	RSA 151:32
He-P 309.02	RSA 151:33; RSA 151:35
He-P 309.10	RSA 151:33, I, II-a (b), IV and V; RSA 151:35

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

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

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

**The proposed rules may be viewed and downloaded at:**

<http://www.dhhs.nh.gov/oos/aru/comment.htm>

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Thursday, January 20, 2022**

☒ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Wednesday, January 12, 2022 at 10:30am**

Place: [\*\*DHHS Brown Bldg., Auditorium, 129 Pleasant St., Concord, NH\*\*](#)

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

FIS # 21:127, dated November 24, 2021

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

There is no difference in cost when comparing the proposed rule to the existing rule.

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

No federal mandate, no impact on state funds.

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

**A. To State general or State special funds:**

None.

**B. To State citizens and political subdivisions:**

None.

**C. To independently owned businesses:**

None.

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

**The proposed rules modify an existing program or responsibility, but do not mandate any fees, duties, or expenditures on the political subdivisions of the state, and therefore do not violate Part I, Article 28-a of the NH Constitution.**

## PART He-P 309 HEALTHCARE ASSOCIATED INFECTIONS REPORTING

**Readopt He-P 309.01 and He-P 309.02, effective 12-11-19 (Document #12943), as amended effective 10-23-21 (Document #13282, Interim), to read as follows:**

He-P 309.01 Definitions.

(a) “Ambulatory surgical center” means “ambulatory surgical center” as defined in He-P 812.03(i) and licensed in accordance with RSA 151 and He-P 812. The term “ambulatory surgical center” includes “ambulatory surgical facility” as used in RSA 151:33.

(b) “Assisted living residence” means “assisted living residence” as defined in RSA 161-J:2, II.

(c) “Catheter-associated urinary tract infections (CAUTI)” means urinary tract infections that are associated with having a catheter as defined by the National Healthcare Safety Network (NHSN) in the material incorporated by reference in He-P 309.03(a).

(d) “Central line” means one of the following types of intravascular catheter that terminates at or close to the heart, or in one of the great vessels that is used for infusion, withdrawal of blood, or hemodynamic monitoring:

(1) A permanent central line, including:

- a. Tunneled catheters;
- b. Tunneled dialysis catheters; and
- c. Implanted catheters;

(2) A temporary central line or a non-tunneled, non-implanted catheter; and

(3) An umbilical catheter, which is a vascular catheter inserted through the umbilical artery or vein in a neonate.

(e) “Centers for Medicare and Medicaid Services (CMS)” means the federal agency within the U.S. Department of Health and Human Services that administers the Medicare and Medicaid programs.

(f) “Central line related bloodstream infections (CLABSI)” means central line-associated blood stream infections, or a bloodstream infection that is associated with having a central line as defined by NHSN in He-P 309.04(a).

(g) “Department” means the New Hampshire department of health and human services.

(h) “End stage renal disease dialysis center (ESRDDC)” means “end stage renal disease dialysis center” as defined in He-P 811.03(r) and licensed in accordance with RSA 151 and He-P 811. The term includes “end-stage renal dialysis center” as used in RSA 151:33.

(i) “Healthcare associated infection (HAI)” means an infection that a patient acquires during the course of receiving treatment for another condition within a healthcare setting.

(j) “Healthcare personnel (HCP)” means all facility personnel, including but not limited to, physicians, nurses, nursing assistants, therapists, technicians, emergency medical service personnel, dental personnel, pharmacists, laboratory personnel, autopsy personnel, students, trainees, volunteers, and contractual staff not employed by the healthcare facility, such as clerical, dietary, housekeeping, and maintenance staff regardless of clinical responsibility or patient contact.

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

(l) “Influenza vaccination rates” means the proportion of persons that received influenza vaccine.

(m) “Inpatient census” means the average number of inpatients per year for each hospital, which shall be determined by the total number of admissions per year.

(n) “Intravenous (IV) antimicrobial start” means administration starts of all intravenous antibiotics or antifungals.

(o) “LabID event” means a positive laboratory test result for *Clostridioides difficile* toxin A, toxin B, or both, or any detection of toxin-producing *Clostridioides difficile* organisms by culture or other laboratory means on an unformed stool specimen that conforms to the container, when tested through methods such as molecular assays, include polymerase chain reaction (PCR), toxin assays, including enzyme immunoassay (EIA), or both.

(p) “Measure” means any infection or process measure reported by a hospital pursuant to RSA 151:33, II and III and as described in He-P 309.02(a) and (b), and any infection or process measure reported by an ambulatory surgical center pursuant to RSA 151:33, II-a and III and as described in He-P 309.02(c) and (d).

(q) “National Healthcare Safety Network (NHSN)” means the web-based surveillance system for healthcare-associated infection surveillance maintained by the Centers for Disease Control and Prevention.

(r) “New Hampshire veterans’ home” means “home” as defined in Ve-H 102.03 and licensed in accordance with RSA 119:1 and Ve-H 100-400. This term includes “veterans’ home” as used in RSA 151:33.

(s) “Nursing home” means “nursing home” as defined in He-P 803.03(az) and licensed in accordance with RSA 151 and He-P 803.

(t) “Residential care facility” means “residential health care facility” as defined in He-P 805.03(bj) and licensed in accordance with RSA 151 and He-P 805. This term also includes “assisted living residence-residential care (ALR-RC)”.

(u) “Specialty hospital” means a psychiatric or rehabilitation hospital as defined in He-P 802.

(v) “Supported residential health care facility (SRHCF)” means “supported residential health care facility” as defined in He-P 805.03(bu).

(w) “Surgical antimicrobial prophylaxis” means administration of antibiotics in relation to a surgical procedure as defined by CMS in He-P 309.07(a).

(x) “Surgical wound infections” means surgical site infections (SSI), or an infection that is associated with a surgical procedure, as defined by NHSN in He-P 309.06(a).

(y) “Vascular access site infection” means an infection that is associated with having a dialysis access site.

#### He-P 309.02 Reporting Requirements.

(a) In accordance with RSA 151:33, II, all hospitals shall identify, track, and report infections, including:

- (1) Catheter-associated urinary tract infections;
- (2) Central line related bloodstream infections; and
- (3) Surgical wound infections.

**Note to the JLCAR RSA 151:33** uses “nursing and residential care facility” as a single term. This may require a legislative fix as the rest of the RSA 151 does not.

(b) All hospitals shall provide to the department *Clostridioides difficile* infection (CDI) labID event data, if available.

(c) Hospitals shall also identify, track, and report process measures including:

(1) Coverage rates of influenza vaccination for health care personnel and patients or residents; and

(2) Antimicrobial use data, if available.

(d) In accordance with RSA 151:33, II-a, all ambulatory surgical centers shall identify, track, and report surgical wound infections.

(e) Ambulatory surgical centers shall also identify, track, and report on the following:

(1) Surgical antimicrobial prophylaxis administered intravenously; and

(2) Coverage rates of influenza vaccination for health care personnel.

(f) In accordance with RSA 151:33, II-b, all end-stage renal dialysis centers shall identify, track, and report dialysis events, including:

(1) Positive blood cultures; and

(2) Vascular access site infections.

(g) End stage renal dialysis centers shall also identify, track, and report on the following:

(1) Intravenous antimicrobial start time; and

(2) Coverage rates of influenza vaccination of health care personnel.

(h) In accordance with RSA 151:33, II-c, the New Hampshire veterans' home and all nursing homes, residential care facilities, and assisted living facilities shall identify, track, and report coverage rates of influenza vaccination of health care personnel.

**Readopt with amendment He-P 309.10, effective 12-11-19 (Document #12943), to read as follows:**

He-P 309.10 Intravenous Antimicrobial Administration.

(a) End stage renal dialysis centers shall, when submitting ESRD data, report intravenous antimicrobial administration by complying with the United States Centers for Disease Control and Prevention, National Healthcare Safety Network, "End Stage Renal Dialysis (ESRD) Event" protocol (January 2022 edition), available as noted in Appendix A at <http://www.cdc.gov/nhsn/pdfs/pscmanual/8pscdialysiseventcurrent.pdf>.

(b) In addition to the reporting requirements identified in (a) above, end stage renal dialysis centers shall submit ESRD data within 60 days of the close of each quarter, as follows:

(1) Quarter 1 data, from January 1st to March 31st, shall be reported on or before May 30th;

(2) Quarter 2 data, from April 1st to June 30th, shall be reported on or before August 29th;

(3) Quarter 3 data, from July 1st to September 30th, shall be reported on or before November 29th; and

**Edit.** Insert "November 2019 edition" if this form is not being updated.

- (4) Quarter 4 data, from October 1st to December 31st, shall be reported on or before March 1st of the following calendar year.
- (c) Ambulatory surgical centers shall report the list of procedures during which the patient received intravenous prophylactic antibiotic to the department on the "Intravenous Antibiotic Reporting Form" within 60 days of the close of each quarter, as follows:
- (1) Quarter 1 data, from January 1st to March 31st, shall be reported on or before May 30th;
  - (2) Quarter 2 data, from April 1st to June 30th, shall be reported on or before August 29th;
  - (3) Quarter 3 data, from July 1st to September 30th, shall be reported on or before November 29th; and
  - (4) Quarter 4 data, from October 1st to December 31st, shall be reported on or before March 1st of the following calendar year.
- (d) The department shall contact all ambulatory surgery centers via email no later than March 15 of each year, and provide the survey, as well as a pdf copy.
- (e) Ambulatory surgery centers shall either:
- (1) Complete the survey; or
  - (2) Complete the pdf version of the survey and return to the department via:
    - a. Email, as an email attachment, to [haiprogram@dhhs.nh.gov](mailto:haiprogram@dhhs.nh.gov);
    - b. Fax, at (603) 271-0545; or
    - c. Mail, to:
 

Healthcare Associated Infections Surveillance Program  
 Bureau of Disease Control  
 Division of Public Health Services  
 Department of Health and Human Services  
 29 Hazen Drive  
 Concord, NH 03301
- (f) Ambulatory surgery centers shall report the following measures on the "Intravenous Antibiotic Reporting Form":
- (1) Facility name;
  - (2) Unique patient identification number;
  - (3) Date of the surgery or procedure;
  - (4) Type of procedure using codes as defined by the World Health Organization's "International Classification of Diseases (ICD)" (11th Revision), available as noted in Appendix B;
  - (5) Type of prophylactic antibiotic;
  - (6) Time of the start of the intravenous antibiotic was included; and
  - (7) Time of the start of the incision.

(g) Specialty hospitals shall not be required to report surgical antimicrobial prophylaxis data and intravenous antimicrobial administration.

(h) Residential care facilities, assisted living residences, nursing homes, and the veterans' home shall not be required to report surgical antimicrobial prophylaxis data and intravenous antimicrobial administration.

#### APPENDIX A: Incorporation by Reference Information

Rule	Title	Publisher, How to Obtain, Cost
He-P 309.10(a)	United States Center for Disease Control and Prevention, National Healthcare Safety Network's, "End Stage Renal Dialysis (ESRD) Event" (January 2022 Edition)	Publisher: United States Center for Disease Control and Prevention Cost: Free to the Public The incorporated document is available at: <a href="http://www.cdc.gov/nhsn/pdfs/pscmanual/8pscdialysiseventcurrent.pdf">http://www.cdc.gov/nhsn/pdfs/pscmanual/8pscdialysiseventcurrent.pdf</a>
He-P 309.10(f)(4)	World Health Organization's "International Classification of Diseases" (11th Revision)	Publisher: World Health Organization Cost: Free to the Public The incorporated document is available at: <a href="https://icd.who.int/en">https://icd.who.int/en</a>

#### APPENDIX B

RULE	RSA/FEDERAL CITATION
He-P 309.01	RSA 151:32
He-P 309.02	RSA 151:33; RSA 151:35
He-P 309.10	RSA 151:33, I, II-a (b), IV and V; RSA 151:35



# 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:	<b>Katrina Hansen</b>	Title:	<b>Chief- Infectious Disease Surveillance Section</b>
Address:	<b>Dept. of Health &amp; Human Services Division of Public Health Services Infectious Disease Surveillance Section 29 Hazen Drive Concord, NH 03301</b>	Phone #:	<b>271-8325</b>

3. Specific rule number where the material is incorporated: **He-P 309.10(a)**

**\*\*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 the United States Center for Disease Control and Prevention, National Healthcare Safety Network's, "End Stage Renal Dialysis (ESRD) Event" (January 2022 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: United States Center for Disease Control and Prevention**

**Cost: Free to the Public**

**The incorporated document is available at:**

**<http://www.cdc.gov/nhsn/pdfs/psmanual/8pscdialysiseventcurrent.pdf>**

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: 2/22/2022

Signature: Lori Shabinette

Name: Lori A. Shabinette

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.)

# 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:	<b>Katrina Hansen</b>	Title:	<b>Chief- Infectious Disease Surveillance Section</b>
Address:	<b>Dept. of Health &amp; Human Services Division of Public Health Services Infectious Disease Surveillance Section 29 Hazen Drive Concord, NH 03301</b>	Phone #:	<b>271-8325</b>

3. Specific rule number where the material is incorporated: **He-P 309.10(f)(4)**

**\*\*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 the World Health Organization's "International Classification of Diseases" (11th Revision)**

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: World Health Organization**

**Cost: Free to the Public**

**The incorporated document is available at:**

**<https://icd.who.int/en>**

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: 2/17/22

Signature: Lori Shabinette

Name: Lori A. Shabinette

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.)