

APPENDIX II-G

COVER SHEET FOR FINAL PROPOSAL

Notice Number 2022-45 Rule Number He-P 311

<p>1. Agency Name & Address:</p> <p>Dept. of Health & Human Services Division of Public Health Services Bureau of Infectious Disease Control 29 Hazen Drive Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 141-C:26</u></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 type="checkbox"/> Readoption</p> <p><input checked="" type="checkbox"/> Readoption w/amendment</p>
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5. Short Title: **Temporary Acute Care Centers Located within a Hospital**

6. Contact person for copies and questions:

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

7. The rulemaking notice appeared in the Rulemaking Register on **March 24, 2022**.

**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 2022-45

Rule Number He-P 311

1. Agency Name & Address:

**Dept. of Health & Human Services
Division of Public Health Services
Bureau of Infectious Disease Control
29 Hazen Drive
Concord, NH 03301**

2. RSA Authority: RSA 141-C:26

3. Federal Authority: _____

4. Type of Action:

Adoption _____

Repeal _____

Readoption X

Readoption w/amendment _____

5. Short Title: **Temporary Acute Care Centers Located within a Hospital**

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

He-P 311 sets forth the requirements to establish and operate temporary acute care centers (ACCs) located within a hospital for the purpose of the delivery of acute medical services to persons who would normally require admission to an acute care hospital, when there is a public health incident as defined in RSA 508:17-a, II(c), and when acute care hospitals in the area do not have the physical and human resources necessary to meet the demand or anticipated demand for medical care.

The Department of Health and Human Services (Department) is proposing to readopt He-P 311. He-P 311 is currently an emergency rule and is scheduled to expire on June 10, 2022.

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

This part shall apply to any person, agency, partnership, corporation, government entity, association, or other legal entity operating a temporary acute care center. Any facility established under this section shall be exempt from the provisions of RSA 151, except as otherwise required herein.

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

Rule	Specific State or Federal Statutes the Rule Implements
He-P 311.01	RSA 141-C:26
He-P 311.02	RSA 141-C:26
He-P 311.03	RSA 141-C:26
He-P 311.04	RSA 141-C:26
He-P 311.05	RSA 141-C:26
He-P 311.06	RSA 141-C:26
He-P 311.07	RSA 141-C:26

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

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

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

The proposed rules may be viewed and downloaded at:

<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, April 21, 2022**

☒ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, April 14, 2022 at 12:30pm.**

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

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

FIS # 22-037, dated March 10, 2022

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 rule does not modify an existing program or responsibility, and does not mandate any fees, duties, or expenditures on the political subdivisions of the state, and therefore does not violate Part I, Article 28-a of the NH Constitution.

CHAPTER He-P 300 DISEASES

Readopt with amendment He-P 311, effective 12-10-21 (Document #13304, Emergency), to read as follows:

PART He-P 311 RULES FOR TEMPORARY ACUTE CARE CENTERS LOCATED WITHIN A HOSPITAL

He-P 311.01 Purpose. The purpose of these rules is to set forth the requirements to establish and operate temporary acute care centers located within a hospital pursuant to RSA 141-C:26, and thereby ensure, through basic standards, the health and safety of individuals in a temporary acute care center located within a hospital.

He-P 311.02 Scope. This part shall apply to any person, agency, partnership, corporation, government entity, association, or other legal entity operating a temporary acute care center. Any facility established under this section shall be exempt from the provisions of RSA 151, except as otherwise required herein.

He-P 311.03 Definitions. As used in this part, unless the context indicates otherwise, the following terms have the following meanings:

(a) “Centers for Medicare and Medicaid Services (CMS)” means the United States Department of Health and Human Services Centers for Medicare and Medicaid Services;

(b) “Commissioner” means the commissioner of the New Hampshire department of health and human services;

(c) “Department” means the New Hampshire department of health and human services; and

(d) “Temporary acute care center” means a facility established for the purpose of the delivery of acute medical services to persons who would normally require admission to an acute care hospital, when there is a public health incident as defined in RSA 508:17-a, II(c) and when the acute care hospitals in the area do not have the physical and human resources necessary to meet the demand or anticipated demand for medical care.

He-P 311.04 Establishment. A temporary acute care center shall only be established with the authorization of the commissioner, following the written approval of the governor, for a temporary duration when there is a public health incident as defined in RSA 508:17-a, II(c) and when the acute care hospitals in the area do not have the physical and human resources necessary to meet the demand or anticipated demand for medical care to persons who would normally require admission to an acute care hospital.

He-P 311.05 Duties and Responsibilities.

(a) The temporary acute care center shall comply with these rules and all applicable CMS regulations, in consideration of any waivers or flexibilities allowable and approved by CMS, under 42 CFR 482 and 42 CFR 485 in effect throughout the duration of the operation of the temporary acute care center, including, but not limited to:

- (1) Facility and staffing requirements;
- (2) Screening and admission criteria;
- (3) Payment and reimbursements;
- (4) Clinical standards;
- (5) Recordkeeping;
- (6) Patient rights; and
- (7) Discharge criteria.

(b) The temporary acute care center shall comply with all provisions of RSA 151:21, except when the health or safety of the individual or other patients would be endangered.

(c) If notified by CMS that the temporary acute care center is out of compliance with (a) above to the extent that the health or safety of individuals are in jeopardy, the department shall withdraw the temporary acute care center's designation.

He-P 311.06 Payment and Reimbursement. The temporary acute care center shall follow its established procedures for the billing of services rendered.

He-P 311.07 Immunity. For the purposes of immunity, actions taken pursuant to this section shall be considered an emergency management function under RSA 21-P:41, I.

Appendix

Rule	Specific State or Federal Statutes the Rule Implements
He-P 311.01	RSA 141-C:26
He-P 311.02	RSA 141-C:26
He-P 311.03	RSA 141-C:26
He-P 311.04	RSA 141-C:26
He-P 311.05	RSA 141-C:26
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