

<p>1. Agency Name & Address:</p> <p>Dept. of Health and Human Services Bureau of Child Development and Head Start Collaboration 129 Pleasant Street Concord, NH 03301</p>	<p>2. RSA Authority: <u>161:2, XII; 161:4-a, III</u></p> <p>3. Federal Authority: <u>45 CFR § 98.41; 45 CFR § 98.42</u></p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <u>X</u></p>
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5. Short Title: **Health and Safety Rules for Facility-Based and In-Home License-Exempt Child Care Providers Receiving Child Care Scholarship**

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

The Department of Health and Human Services (Department) proposes to readopt with amendment He-C 6916 and He-C 6917 which specify health and safety rules for, respectively, facility-based and in-home license-exempt child care providers receiving child care scholarship. The amendments:

- **Edit definitions to mimic those listed in other areas of He-C 6900 on the child care program;**
- **Correct citations to both administrative rules and RSAs;**
- **Align He-C 6916 and He-C 6917, where applicable;**
- **Align the proposed rules with the Child Care Licensing Unit (CCLU) rule, He-C 4002, including but not limited to:**
 - **Allowing Pediatric Cardiopulmonary Resuscitation (CPR) and first aid training to be included in the required annual professional development hours for Child Care and Development Fund (CCDF) license-exempt facilities and their staff members, and in-home providers;**
 - **Aligning the health and safety items listed in the sections regarding the safety both indoors and outdoors;**
 - **Including handwashing criteria for license-exempt facilities (He-C 6916.10(a) and (b)) and in-home providers (He-C 6917.10(a) and (b));**
 - **Including provisions that license-exempt facilities (He-C 6916.12(f)) and in-home providers (He-C 6917.12(j)) shall comply with any parental restrictions regarding their child's use of electronic media; and**
 - **Including a provision that license-exempt facilities (He-C 6916.14(b)(3)) shall have a first aid kit on all field trips;**
- **Remove provisions that gave license-exempt facilities a deadline of 3/3/19 and license-exempt in-home providers a deadline of 3/30/19 to come into compliance with the requirements for all health and safety trainings, as these deadlines have expired;**
- **Add requirements for handrails for any stairway with more than 3 steps for license-exempt facilities (He-C 6916.05(d)) and license-exempt in-home providers (He-C 6917.05(d)).**

- **Ensure compliance with the Federal Office of Child Care in response to a preliminary letter of noncompliance received on March 2, 2022 by:**
 - Adding requirements for fencing for license-exempt facilities (He-C 6916.05(g) and (h));
 - Adding health and safety requirements for the care of all diapered children that license-exempt facilities may serve (He-C 6916.06(d));
 - Adding requirements for appropriate disposal of and cleaning of biocontaminants (He-C 6916.10(d));
 - Adding a section for informal dispute resolution (IDR) for license-exempt facilities (He-C 6916.17) and license-exempt in-home providers (He-C 6917.17);
 - Adding clarifying language to the Department’s definition of “in-home provider” (He-C 6917.03(k)) to specify that an in-home provider is one singular person, and that in-home providers may not have staff members or volunteers, which was the intent of the original rule; and
 - Aligning the Department’s definition of “relative” (He-C 6917.03(r)) to 45 CFR 98.42(c) and including that non-relative providers who provide care in the child’s home are not exempt from monitoring visits.
- **Add a provision indicating that written instructions for administering medication from the child’s physician must be updated and on file for all license-exempt facilities (He-C 6916.09(f)) and license-exempt in-home providers (He-C 6917.09(f)) any time there is a change which impacts the administration of the medication (dosage, administration method, regiment, or any other change);**
- **Add a provision that license-exempt facilities (He-C 6916.12(l)-(o)) shall develop and implement a written policy to address the limitations of expelling children from the child care program for challenging behaviors. This provision was intended to be in He-C 6916 previously, but was entered only into He-C 6917 in error; and**
- **Editorial changes to restructure format, correct grammar, and other clarifications for readability.**

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

License-exempt providers in New Hampshire and the families utilizing their care.

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 or Regulations the Rule Implements
He-C 6916	RSA 161:2, XII; RSA 161:4-a, III; RSA 170-E:3, I(f) and (g); RSA 170-E:6-a; RSA 170-E:10-a; RSA 170-E:11; RSA 170-G:4, XVIII; RSA 170-G:5; 45 CFR 98.41; and 45 CFR 98.42
He-C 6917	RSA 161:2, XII; RSA 161:4-a, III; RSA 170-E:3, I(c) & (h); RSA 170-E:6-a; RSA 170-E:10-a; RSA 170-E:11; RSA 170-G:4, XVIII; RSA 170-G:5; 16 CFR 1219; 16 CFR 1220; 45 CFR 98.41; and 45 CFR 98.42

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

Name: **Nicole Valanzola** Title: **Rules Coordinator –
Administrative Rules Unit**
Address: **Dept. of Health and Human Services** Phone #: **(603) 271-9640**
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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: **Wednesday, December 28, 2022**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Tuesday, December 20, 2022 at 11:00 am**

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

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

FIS # 22:211, dated 11/7/2022

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

When compared to the existing rules, the proposed rules may increase costs and benefits to independently-owned businesses by indeterminable amounts.

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

Federal regulation 45 CFR 98 established standards for states and child care providers receiving funding through the child care and development block grant. Select changes in the proposed rule (for example, the proposed definition of “relative” in He-C 6917.03(r)) are being made to align with provisions in the federal regulations.

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:

Potential costs of the proposed rule are summarized as follows:

- License-exempt facilities may experience an indeterminable increase in labor costs due to a need to ensure that all new health and safety requirements are implemented and new paperwork requirements are completed.

- There may be an indeterminable cost to both license-exempt facilities and in-home providers to ensure that handrails are in place for all stairways with more than three steps.
- There may be an indeterminable but, according to the Department of Health and Human Services, potentially high cost to licensee-exempt facilities due to the newly-proposed fencing requirements. The Department states that many such facilities already have fencing in place, but for those that do not, the costs would be unique and on a case-by-case basis.

Potential benefits are as follows:

- The proposed rule allows hours obtained securing certifications in first aid and CPR to be used toward required annual professional development hours.
- The proposed rule establishes a process to allow license-exempt in-home providers to correct inaccuracies in monitoring reports via an informal dispute resolution process.

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 N.H. Constitution.