

Readopt with amendment He-C 6916, effective 5-24-18 (Document #12536), to read as follows:

PART He-C 6916 HEALTH AND SAFETY RULES FOR ~~FACILITY-FACILITY~~-BASED LICENSE-EXEMPT CHILD CARE PROVIDERS RECEIVING CHILD CARE SCHOLARSHIP

Statutory Authority: RSA 161:2, XII, RSA 161:4-a, III

He-C 6916.01 Purpose. The purpose of this part is to set forth the minimum standards for health and safety requirements for license-exempt child care providers who provide child day care services for children and families receiving child care scholarship, pursuant to RSA 170-E:6-a, RSA 170-E:3, I(f), and (g), and 45 CFR Part 98.41 and 98.42.

He-C 6916.02 Scope. This part shall apply to any license-exempt ~~child care facility~~-based child care program providing child day care services to families receiving child care scholarship, pursuant to He-C 6914, and is exempt from licensure, pursuant to, RSA 170-E:3, I(f), and (g).

He-C 6916.03 Definitions.

(a) “Authorized representative” means an individual who is designated or authorized by a child care provider to act on behalf of that provider in matters related to billing the department of health and human services (DHHS) for child care services provided, and is not the parent of a child in the facility-based program’s care who is receiving child care scholarship.

(b) “Caretaker relative” means a relative, who is not the biological or adoptive parent of a child, but is providing care and supervision of the child in the assistance group.

(ac) “Child” means “child” as defined in RSA 170-E:2, II, namely “any person under 18 years of age,” pursuant to RSA 170-E:2, II.

(bd) “Child care” means the act of providing supervision, food, activity, and rest for a child for any portion of a 24-hour day, in order to promote healthy child development and assist the child’s parent(s), caretaker relative, or legal guardian in preparing for, securing, or maintaining employment or employment-related education or training, for an approved activity that supports service or case plan goals apart from the child’s parent, caretaker relative or legal guardian.

(ee) “Commissioner” means “the commissioner of the department of health and human services,” as defined in RSA 170-E2, V.

(ef) “Corporal punishment” means the use of physical force, physical restraint, or physical actions against a child as a means intentional infliction of physical pain by any means for the purpose of punishment, correction, discipline, instruction, or any other reason.

(eg) “Department” means “the department of health and human services” as defined in RSA 170-E:2, VII.

(fh) _____—“Developmentally appropriate” means actions, environment, equipment, supplies, communications, interactions, or activities that are based on the developmental level and abilities, the family culture, and the individual needs of each child in care.

(gi) “Enrolled child care provider” means a child care provider who has met the requirements found in He-C 6914 and is authorized to receive payment for services from the department. The term includes “registered provider” as defined in RSA 170-E:6-a.

(hj) “~~Facility-Facility~~-based program” or “program” means a license-exempt child care provider, pursuant to RSA 170-E:3, I (f) and (g), that is enrolled as a child care provider pursuant to He-C 6914.

(ik) “Foster parent” means an individual who has a license or permit for foster family care, pursuant to He-C 6446.

(jl) “Legal guardian” means an individual who is given legal authority by a court and charged with the duty to provide care, custody, and supervision of ~~the a child or children~~.

(km) “Monitoring statement” means a written report issued by the department detailing the ~~findings results~~ of a monitoring visit conducted by the department.

(ln) “Monitoring visit” means a visit made to the ~~facility-facility~~-based program by the department for the purpose of assessing compliance with He-C 6914, He-C ~~6917~~6916, and 45 CFR Part 98.41 and 98.42.

(mo) “NH professional registry” means New Hampshire’s ~~password-password~~-protected electronic database designed to support and track professional development for the early childhood and ~~afterschool school age child care~~ workforce pursuant to He-C 6914.04-(~~gk~~) and (h).

(np) “Parent” means an individual who has a birth, adoptive, or ~~step-parent~~stepparent relationship to the child ~~or children~~, a foster parent as defined in (ik) above ~~or~~, a legal guardian as defined in (ml) above, ~~or a caretaker relative as defined in (b) above~~.

~~—(op) “Program” means a license exempt child care provider pursuant to RSA 170 E: 3, I, (f) and (g). The term solely includes facility facility based programs.~~

(pq) “Program improvement plan” means a written plan, developed by a program, and approved by the department, in response to a monitoring statement, ~~assessment, and~~ stating how the program will come into compliance with the rules.

(qr) “Staff” means the ~~employees~~staff of a ~~facility-facility~~-based program who provide supervision of children or who are required to meet staff-to-child ratios.

~~—(rs) “Supervision” means being present with children in child care, knowing their identities of children in care, the number of children present, identities, and their whereabouts, observing their activities, and being in close enough proximity to have all children within sight or hearing, and allowing intervention, if needed, to safeguard each child from accident or injury.~~

He-C 6916.04 Professional Development.

(a) ~~Every 12-month period, b~~Beginning on the date of enrollment, staff shall complete a minimum of 6 hours of professional development in all of the health and safety topics listed in He-C 6914.04(e)(1)-(11) and (h)(1)-(2), and annually thereafter:

- (1) Complete 2 hours of ~~annual~~professional development in any of the health and safety topics ~~pursuant to listed~~ in He-C 6914.04(~~de~~)(1)-(11), and (eh)(1)-(2);

(2) Complete 2 hours of ~~annual~~ professional development in any of the topics ~~areas~~ listed in ~~accordance with~~ He-C 6914.05-(a),(3)(a)-(4m); and

(3) Upload documentation of completion of professional development in (a)(1) and (2) above to the NH Professional Registry.

(b) Staff hired after the DHHS enrollment date shall complete a minimum of 6 hours of professional development in all of the health and safety topics listed in He-C 6914.04(e)(1)-(11) and (h)(1)-(2), and each 12-month period from the staff's date of hire:

(1) Complete the professional development specified in (a)(1) and (2) ~~above each 12-month period, from the date of hire;~~ and

(2) Upload documentation of completion of professional development in (b)-(1) above to the NH Professional Registry.

~~—(c) CPR and first aid training shall not be included in the annual required professional development hours specified in (a) (1) and (2) above.~~

~~(dc)~~ Staff hired for 4 months or less, such as for a summer or recreational program, shall complete and upload to the NH Professional Registry documentation of the required health and safety topics ~~pursuant to~~ listed in He-C 6914.04 ~~(de)~~(1)-(11), and ~~(eh)~~(1)-(2) within 2 weeks of the ~~start of employment~~date of hire.

~~(e) Programs enrolled with the department prior to October 1, 2017, who have maintained enrollment, shall comply with the requirements in (a)(1) and (2) above by March 30, 2019. Thereafter, annual professional development shall be completed by March 30th.~~

He-C 6916.05 Building and Physical Premises Safety.

(a) Both indoor and outdoor Premises shall be safe, clean, free of clutter, and in good repair~~maintained in a neat, clean and safe condition, free and clear of excess clutter and items such as boxes and bins used for storage which restrict children's free movement.~~

(b) Programs shall maintain the child care environment and ensure the indoor space is:

(1) Free from electrical hazards, such as overloaded outlets or extension cords, frayed, cracked or crimped cords, or unprotected outlets;~~free of hazards to children including, but not limited to, the following:~~

(2) Free from Fire~~fire~~ hazards;

(3) Electrical hazards~~Well-ventilated by means of unobstructed mechanical ventilation system or open screened window;~~

(4) Free from Guns, weapons, or live or spent ammunition which are not in locked storage;

(5) Free from accessible Knives and sharp objects unless the object is being used under the direct supervision of a ~~provider~~staff member;

(6) Free from Hheavy furnishings or other heavy items that could easily tip or fall on children and would be likely to cause injury;

(7) Free from accessible Loose and flaking paint ~~which is accessible to children;~~

~~(6) Unclean conditions or disrepair which demonstrates a lack of regular cleaning or maintenance;~~

~~(88) Well-lit to allow for the supervision of children and for child care staff and children to move about safely;~~

~~(79) Free from Damp conditions which result in visible mold, or mildew, or a musty odor;~~

~~(10) Free from poisonous plants; and~~

~~(811) Free from The use of trampolines use during child care hours, with the exception of small indoor trampolines intended for individual use with direct staffadult supervision only; and~~

~~(12) Free from accessible items labeled "keep of out of reach of children" which are accessible to children without unless the item is non-toxic and being used under the direct supervision of a staff memberprovider.~~

(c) All windows used for ventilation shall include screens in good repair, to prevent insects from entering the building. Windows and glass doors shall be constructed, adapted, or adjusted via the use of window guards or other means to prevent injury to children.

(d) Stairways with more than 3 steps shall be equipped with handrails.

(e) Construction, remodeling, or alteration of structures during child care operations shall be done in a manner as to prevent exposure of children to hazardous or unsafe conditions including, but not limited to, fumes, dust, construction materials, and tools which pose a safety hazard.

(ef) Programs shall ensure that all indoor areas used by children:

- (1) Have a safe, functioning heating system;
- (2) Include protection for children from exposed heat sources which present a hazard, including but not limited to baseboard heaters, radiators, fireplaces, and woodstoves; and
- (3) Have working smoke detectors on each level.

(eg) Portable electric space heaters shall:

- (1) Be inaccessible to children;
- (2) Bear the safety certification of a recognized laboratory such as Underwriters Laboratory (UL) or Electro Technical Laboratory (ETL); and
- (3) Be installed and operated in accordance with the manufacturer's specifications.

(fh) Outside areas which are accessible to children shall be free of hazards including, but not limited to, the following:

- (1) Unprotected pools, wells, or other bodies of water;
- (2) Lawn and farm machinery;
- (3) Trash, litter, or debris;

- (4) Animal feces; and
- (5) ~~Other~~ Any other dangerous items or substances.

(gi) Fencing shall enclose all play areas if the department determines the play area is unsafe because it is located adjacent to:

- (1) A street or road;
- (2) A swimming pool or other body of water, including a river, pond, or stream;
- (3) An active railroad track or crossing
- (4) Sharp inclines or embankments; or
- (5) Any other dangerous area.

(hj) All fencing required by the department or otherwise intended to limit children's access to a defined area shall:

- (1) Have no gaps greater than 4 inches and be designed to restrain ~~preschool~~-children from climbing out of, over, under, or through the fence; and
- (2) Either:
 - a. Be equipped with a child proof self-latching device on any gates leading to an entrance or egress; or
 - b. Be equipped with a child proof lock if the area is determined to be hazardous to children.

(k) In outside areas, stationary play equipment accessible to children shall not be over hard surfaces such as cement or asphalt.

(hl) All swimming pools and wading pools shall be inaccessible to children except during supervised activities.

(im) Wading pools shall:

- (1) Be emptied and cleaned after each use;
- (2) Be stored so that water does not collect in them; and
- (3) Not contain water that is more than 10 inches deep.

~~Programs shall remove standing water.~~

(jn) Programs shall have a safe supply of water under pressure available for drinking and program use.

(ko) Programs shall not use portable toilets, chemical toilets, or any other toilets which are not attached to a functional sewage disposal system.

(p) During all hours of operation there shall be functional sewage disposal facilities.

(q) Smoking shall not be permitted inside the building at any time.

(r) Staff who smoke on their breaks shall:

(1) Not smoke in view of children;

(2) Wash their hands prior to returning to work; and

(3) Change into fresh clothing, or remove smoke-contaminated outerwear prior to returning to work to reduce exposure to third-hand smoke.

He- C 6916.06 Handling, Storage, and Disposal of Hazardous Materials.

(a) All toxic and flammable materials and tobacco products shall be stored in cabinets which are locked, or secured with child proof latches, or otherwise out of reach of children.

(b) Pesticides shall not be used in areas used by children while children are present, and any treated indoor area must be aired out per manufacturers' instructions prior to allowing children to return to that area.

(c) Programs shall adhere to state and federal rules and regulations in regards to lead paint and asbestos removal.

(d) Programs serving diapered children and children who are not toilet trained shall have a designated diaper changing area, which shall:

(1) Be located adjacent to or in close proximity to a designated handwashing sink to allow access for handwashing without having to open doors or gates or have physical contact with other children;

(2) Have a non-porous washable surface, which shall be used exclusively for diaper changing and sanitized after each diaper change;

(3) Contain a covered, hands-free receptacle, lined with a plastic bag, and located within the reach of the diaper changing area for disposal of soiled disposable diapers and cleansing articles; and

(4) Not be located in kitchens or in food preparation or food service areas, or on surfaces where food is prepared or served.

He-C 6916.07 Emergency Preparedness and Response Planning, and Practice Drills.

(a) Programs shall ensure that for each child, upon the child's first day in attendance in the program, there is a ~~child registration and emergency information~~²²⁶ Child Care Registration and Emergency Information for License Exempt Programs" (March 2023) form completed and signed by a the parent, on file, at the program which contains:

- (1) Full legal name of the child;
- (2) Child's date of birth;
- (3) Date of enrollment in the program;
- (4) The name, physical address, and mailing address of the parent responsible for the child;
- (5) Telephone numbers for the child's parents and instructions as to how the parents can be contacted during the hours that the child is at the program;
- (6) Email addresses for the parents, if available;
- (7) The name, address, telephone number, and relationship of at least one person who will assume responsibility for the child, if for any reason, the parents cannot be reached immediately in an emergency;
- (8) Any chronic conditions, allergies, or medications to be administered in the event of sudden illness or injury;
- (9) Written parental permission for first aid treatment;
- (10) Written parental permission for emergency medical transportation and treatment;
- (11) The name and telephone number of each child's physician or health care provider; and
- (12) Names, addresses, telephone numbers, and relationships of any person(s) other than parents who are authorized to remove the child from the program.

(b) Programs shall be equipped with a telephone that is operable and accessible to all staff during all operating hours for incoming and outgoing calls.

(c) Pursuant to 45 CFR Part 98.41, programs shall develop an emergency operations plan (EOP) ~~which shall include procedures~~ for responding to natural, human-caused, or technological incidences, which shall contain procedures including, but not limited to:

- (1) Evacuation;
- (2) Relocation;
- (3) Shelter-in-place;
- (4) Lockdown;
- (5) Communication and reunification with families;
- (6) Continuity of operations;
- ~~(7) Accommodations of infants and toddlers;~~
- (8) Accommodations of children with disabilities; and
- (9) Accommodations of children with chronic medical conditions.

(d) Programs shall practice no less than 2 components of their ~~emergency operations response plan (EOP)~~ with children, ~~when appropriate, but~~ no less than twice per year and maintain a written record of the practiced components.

(e) All staff shall review the program's EOP and verification of the review shall be documented in each staff member's personnel file.

(f) Upon enrollment, programs shall provide families with information from the EOP that addresses communication and reunification procedures, as specified in (c)(5) above.

(g) Programs shall conduct at least one fire drill each month the program is in operation in accordance with the following:

- (1) All children and staff shall evacuate the building during each fire drill; and
- (2) Staff shall check daily attendance records to ensure that all children and staff are accounted for after the building is evacuated.

(h) Programs shall complete a written record of fire drills which shall:

- (1) Be maintained on file at the program for one year; and
- (2) Be available for review by the department.

(i) The written record of fire drills required under (h) above shall include at least the following:

- (1) The date and time the drill was conducted;
- (2) The exits used;
- (3) The number of children evacuated and total number of people in the building at the time of the drill;
- (4) The amount of time taken to evacuate the building; and
- (5) The name of the person conducting the drill.

(j) Programs shall conduct a fire drill in the presence of a representative of the department upon request.

(k) ~~Any occurrence of a missing child~~ If a child goes missing while in the care of the program, staff shall be reported to call emergency police services, or 911, as soon as staff has determined that the child cannot be promptly located on the premises of the child care program.

(l) Programs shall report any occurrence of a missing child as described in (k) above to the department within 24 hours.

(m) If a child is seriously injured while in the care of the program, including fractures, dislocations, stitches, second or third degree burns, concussions, or loss of consciousness, or any other injury which results in calling 911, requires emergency medical treatment by a physician or other health care professional, or requires hospitalization, the program shall:

- (1) Notify the child's parent(s) immediately;
- (2) Notify the department within 48 hours; and

(3) ~~Within one week provide~~ Provide to the department a written report which details the nature and circumstances of the serious injury within one week of the incident.

(n) If a child dies while in child care the program shall:

(1) Notify emergency personnel and the child's parent(s) immediately;

(2) Notify the department of the death within 24 hours of the incident; and

~~(3) Provide developmentally appropriate information for children and parent(s) regarding the death of the child; and~~

(4) ~~Within 72 hours provide~~ Provide to the department a written report which details the circumstances which led up to the death within 72 hours of the incident.

(o) In addition to the reporting requirements under (n) above, the program shall, upon request, provide the department with any available information regarding the death.

He-C 6916.08 Prevention of and Response to Emergencies Due to Food and Allergic Reactions.

(a) ~~Programs shall obtain an allergy care plan, signed by the child's physician, from the parents of each~~ Each child with a food allergy or other an allergy, which results in a serious reaction, shall have a written care plan from the child's physician that includes at a minimum:

(1) Instructions regarding the food(s) or other allergens to which the child is allergic and steps to be taken to avoid consuming or coming into contact with those allergens;

(2) A list of specific symptoms that would indicate the need to administer one or more of the medications referenced in (3) below ~~A detailed treatment allergy care plan to be implemented in the event of an allergic reaction, including the names, doses, and methods of prompt administration of any medications;~~ and

(3) Details describing the course of action to take in response to an allergic reaction, including the name, dose, and method of prompt administration of any required medication ~~Specific symptoms that would indicate the need to administer one or more medications.~~

(b) With the permission of the parent ~~or guardian~~, each child's allergies care plan shall be posted prominently ~~and~~ wherever the child might come in contact with the allergen.

(c) ~~The staff~~ Staff shall immediately notify the parent(s) ~~immediately~~ of any suspected allergic reactions, as well as the ingestion of, or contact with, a known allergen even if a reaction did not occur.

(d) Staff shall ~~call~~ contact 911 ~~whenever~~ immediately after epinephrine has been administered.

(e) Staff shall comply with dietary restrictions as requested in writing by the parent(s) of each child, due to food allergies, or religious or philosophical beliefs.

He-C 6916.09 Administration of Medication, Including Immunizations.

(a) Staff shall administer any medication, treatment, or other remedy as required under the provisions of the Americans with Disabilities Act of 1990.

(b) Staff shall only administer medication with:

(1) A valid and current prescription or Signed and dated written instructions for administering the medication from the child's physician; and

(2) Signed and dated ~~Written-written~~ permission from the parent.

(c) Administration of non-prescription topical substances may be performed by any staff, with written permission from the child's parent(s).

(d) In the event of a medication error in the administration of medication, ~~the~~ staff shall notify the child's parent(s) immediately.

(e) For any chronic condition requiring medication that is to be administered for more than 12 months, the written parental authorization specified in (b)(2) above shall be updated annually.

(f) The written instructions for administering the medication from the child's physician specified in (b)(1) above shall be updated by the parents, and on file at the program, if there is any alteration of any kind to the administration of the medication.

~~(fg)~~ Staff shall maintain a written log for each dose of medication, excluding topical substances, administered to each child.

~~(gh)~~ In the event of an error documenting the administration of medication, ~~the~~ staff shall notify the child's parent(s) by the end of the day in which the error occurred.

~~(hi)~~ All medication shall be:

(1) Inaccessible to children;

(2) Stored at the temperature and conditions recommended by the manufacturer, or as directed on the prescription label; and

(3) Labeled with the child's name to ensure correct identification of each child's medication.

~~(ij)~~ Medications such as insulin, inhalers, and EpiPens-epinephrine shall be immediately accessible to staff caring for children requiring such medications to assure timely administration when needed, and in accordance with instructions in He-C 6916.08(a)(2).

~~(jk)~~ All prescription or non-prescription medication and topical substances shall be kept in the original containers or pharmacy packaging and properly closed after each use.

~~(k) Documentation of immunizations, in accordance with RSA 141-C:20-a, RSA 141-C:20-b, and He-P 301.14, shall be on file for each child on the first day the child is in attendance at the program.~~

~~(l) Exemptions from the immunizations required under (1) above shall be in accordance with RSA 141-C:20-c and pursuant to 45 CFR Part 98 for children experiencing homelessness or children in foster care. Providers may enroll children and allow for 60 days for families to obtain and provide documentation of immunizations.~~

~~(m) Programs shall not be required to obtain immunization records for children whose parent(s) object in writing, on the grounds that such immunization is contrary to their religious beliefs, or for children with medical conditions that contraindicate immunization.~~

He-C 6916.10 Prevention and Control of Infectious Diseases, Including Immunizations.

(a) Staff and children shall wash their hands with liquid soap and warm running water as needed-
and:

(1) After each diaper change or toileting;

(2) After handling any bodily fluid;

(3) After cleaning up or handling garbage;

(4) After playing outdoors;-

(5) Before and after eating;

(6) Before and after administering medication; and

(7) Before and during any food preparation or service as often as necessary to remove soil and contamination and prevent cross-contamination when changing tasks or from raw to ready-to-eat foods.

(b) Child care staff shall:

(1) Teach children the importance of handwashing with liquid soap and warm running water; and

(2) Instruct, encourage, remind, or assist children as needed throughout each day to wash their hands as necessary to comply with (a)(1) through (5) above.

(c) Staff shall observe each child for symptoms of illness or injury throughout the day and contact the parent(s) if a child has:

(1) More than one episode of vomiting in one day;

(2) More than one episode of diarrhea in one day;

(3) Uncontrolled coughing or wheezing;

(4) Skin lesions which have not been diagnosed or treated by a licensed health care practitioner;

(5) An oral temperature of 101 degrees Fahrenheit or higher or an under arm temperature of 100 degrees Fahrenheit or higher combined with any of the following:

a. Diarrhea;

b. Rash;

c. Ear-ache;

d. Sore throat; or

e. Vomiting.

~~(ed)~~ When any staff or child in the program have symptoms of or are known to have a communicable disease;

(1) Any spills of bodily fluids shall be immediately cleaned and sanitized;

(2) Persons involved in cleaning surfaces contained with bodily fluids shall:

a. Wear protective disposable gloves while cleaning, disinfecting, and sanitizing the contaminated surface; and

b. Immediately wash their hands with liquid soap and warm running water after discarding the gloves;

(3) Any materials, including disposable gloves and diapers contaminated by bodily fluids, shall be disposed of in a plastic bag with a secure tie or in a covered, plastic bag-lined, hands-free receptacle; and

(4) ~~the~~The program shall contact the bureau of disease control and prevention at (800) 852-3345, ext. 4496 for instructions regarding whether the ill individual is required to be excluded from the program and to determine reporting requirements in accordance with RSA 141-C:7 and He-P 301.03(d) and (e), He-P 301.03(i) and He-P 301.05(i)(~~4~~3)b.

~~(ee)~~ All foods prepared and served to children shall be free from spoilage, filth, ~~or~~ and other contamination.

~~(ef)~~ Programs shall clean and disinfect bathroom facilities whenever visibly soiled, but at a minimum of at least weekly once per week.

~~(fg)~~ Programs with pets on the premises shall:

(1) Ensure dogs and cats have a current vaccination for rabies;

(2) Keep cages that house small animals, fish tanks, and litter boxes away from food preparation, food service areas, as well as ~~or~~ any other area where children play; and

(3) Ensure children do not have direct contact with animal feces or urine either indoors or outdoors.

(h) Documentation of immunizations, in accordance with RSA 141-C:20-a, RSA 141-C:20-b, and He-P 301.14, shall be on file for each child on the first day the child is in attendance at the program.

(i) Exemptions from the immunizations required under (h) above shall be in accordance with RSA 141-C:20-c and pursuant to 45 CFR Part 98.41(a)(1)(i)(C) for children experiencing homelessness or children in foster care. Providers may enroll children and allow for 60 days for families to obtain and provide documentation of immunizations.

(j) Programs shall not be required to obtain immunization records for children whose parent objects, on the grounds that such immunization is contrary to their religious beliefs, or for children with medical conditions that contraindicate immunization.

(k) Documentation for the exemptions listed in (j) above shall be on file with the program, and shall be in accordance with RSA 141-C:20-c.

He-C 6916.11 First Aid and Pediatric Cardiopulmonary Resuscitation (CPR).

(a) Programs shall have on the premises a selection of non-expired first aid supplies adequate to meet the needs of the children in care.

(b) If ~~any~~ child receives an injury or ~~any~~ incident occurs ~~which requires~~ first aid treatment, ~~medical treatment, or medical consultation,~~ staff shall inform the child's parent(s) of the injury ~~or illness~~ on the date the child is injured ~~or becomes ill.~~

(c) If ~~any child has a serious injury while in the care of the program that resulted in medical treatment by a physician or other health care professional, or required hospitalization, or if~~ CPR is performed on a child while in the care of the program, staff shall:

(1) Notify the child's parent(s) immediately;

(2) Notify the department within 48 hours; and

(3) ~~Within one week p~~Provide to the department a written report which details the nature and circumstances ~~of the serious injury which led to CPR being performed within one week of the incident.~~

He- C 6916.12 Child Development.

(a) During the operating hours of the program, parent(s) shall have ~~an~~the opportunity to communicate with the staff ~~that who~~ cares for their child.

(b) Staff shall supervise every child in care at all times.

(c) The only exceptions to (b) above shall be as follows:

(1) Staff may allow children ages 72 months and older to go inside to use the bathroom when no staff are inside provided that staff have a plan in place to keep track of children who have gone inside and to check on children who have not returned in a timely manner; and

(2) Staff may allow school-age children 72 months and older who are enrolled in a full day school program to leave the premises of the program, unsupervised by staff, to participate in a specific activity, provided that there is written authorization from each child's parent(s) on file at the program.

(d) Programs shall provide privacy for each child toileting, while allowing for ~~age-age~~ appropriate supervision of each child.

~~(e) Smoking shall not be permitted in the building anytime.~~

~~(f) Staff who smoke on their breaks shall wash their hands and change into fresh clothing, or remove smoke contaminated outerwear prior to returning to work to reduce exposure to third hand smoke.~~

(g) Programs shall provide daily opportunity for outdoor physical activity in the absence of extreme weather.

(h) All media, including televisions, video, or electronic devices shall be age and developmentally appropriate, and programs shall comply with parental restrictions regarding the use of electronic media for their child.

(ig) Staff shall nurture and encourage each child in care by providing each child with a variety of developmentally appropriate learning and social experiences and establishing and maintaining a learning environment that provides for the emotional well-being of each child.

(jh) When a child is engaging in unacceptable Staff shall guide children's behavior, staff shall using the following techniques:

(1) Establish developmentally appropriate rules or limits for acceptable behavior, which are equitable, and consistently applied, and developmentally appropriate;

(2) Redirecting a child's attention to a desirable activity by providing positive guidance, positively worded directions, and developmentally appropriate explanations for the limits and rules referenced in (1) above when a the child is engaging in unacceptable behavior;

(32) Demonstrate desired behavior and problem-solving skills and then redirect children to acceptable behavior Providing positive guidance;

(3) Establishing developmentally appropriate rules or limits for acceptable behavior — which are fair, consistently applied, realistic, and designed to promote cooperation and respect;

(4) Providing children with reasons for limits and rules;

(5) Giving Providing positively positively worded directions;

(6) Acting as a role model to demonstrate desired behavior and problem solving skills and then redirecting children to acceptable behavior;

(74) Arrangeing equipment, materials, activities, and schedules in a way that promotes desirable behavior; and

(85) Implementing safe, logical, and natural consequences related to the misbehavior and enforcing those consequences as soon as possible after the misbehavior has occurred.

(ji) Separation, or time out, shall only be used as a method to enable a child to regain control of his or herself themselves, not as a punitive disciplinary technique, as follows.:

(1) Separation shall be brief and appropriate to the child's developmental level and circumstances;

(kj)(2) When a child is separated from the group, he or she the child shall be:

a. A_able to see and hear the other children; and

b. Within hearing and vision of staff; and

(3) The only exception to (2) above when shall be that staff may remove a child from the classroom to a quieter area which is visible by other staff, to provide one-on-one attention.

(k) Staff shall not:

(1) Abuse or neglect children;

(2) Use rough handling on children;

(3) Use corporal punishment on children;

~~(43) Attempt to control children's behavior by actions which are damaging to children, including but not limited to:~~

~~a. Requiring Require children to stand or sit facing walls or corners;~~

~~b. Verbally shaming children;~~

~~c. Belittling children;~~

~~d. Ridiculing children;~~

~~e. Yelling at children;~~

~~f. Name calling;~~

~~g. Making verbal threats to children; and~~

~~h. Placing or confining children in equipment that is not appropriate for their age.~~

~~(45) Shame, humiliate, threaten, or frighten children Withhold food from children or forcibly feed children;~~

~~(65) Discipline Withhold food from children, forcibly feed children, or discipline children for not eating;~~

~~(76) Shame, humiliate, or dDiscipline any child children for toileting accidents, or lapses in toileting habits, or prohibiting children from using the toilet as a form of discipline;~~

~~(87) Use isolation as a form of discipline;~~

~~(8) Prohibit children from using the toilet as a form of discipline;~~

~~(9) Yell in anger or frustration at or with children As a means of discipline, require children to:~~

~~a. Sleep or rest; or~~

~~b. Go to their cot, mat, crib, bed, or playpen or other sleeping or rest facilities; or and~~

~~(10) Discipline a child for not sleeping at rest or nap time Use Direct profanity or obscene language withat children or among children where children can hear them use profanity or obscene language in the presence of children.~~

(l) Programs shall develop and implement a written policy to address the limitations of expelling children from the child care program for challenging behaviors.

(m) The policy in (l) above shall address at a minimum:

(1) The steps the program will take to assist the child in maintaining enrollment prior to expelling the child for challenging behaviors;

(2) Parental notification requirements regarding their child's challenging behavior; and

(3) The responsibilities of the program if the challenging behavior results in a serious safety risk to the child or others within the program.

(n) The written policy in (l) above shall be provided to parents at enrollment.

(o) The expulsion policy in (l) above shall only apply when addressing a child's behavior and not a parent's misconduct or the parent's failure to comply with other rules or laws.

He-C 6916.13 Prevention, Recognition, and Reporting of Child Abuse and Neglect.

(a) Staff shall allow a parent access to ~~his or her~~their child(~~ren~~) at all times while the child(~~ren~~) is in the program's care, unless allowing access is contrary to a court order or a court-ordered parenting plan, pursuant to He-C 6914.07(a).

(b) ~~The staff~~Staff shall take prompt action to protect children from abuse, neglect, corporal punishment, ~~or~~and any other mistreatment by any individual.

(c) Any ~~child care program~~ staff or other person involved with a program who suspects that a child is being abused or neglected shall be a mandated reporter in accordance with RSA 169-C:29 and shall report the suspected abuse to the division for children, youth, and families ~~at~~by calling 1-800-894-5533.

(d) When any child, while ~~under the~~in care of a program, is the victim of corporal punishment or other harsh punishment or treatment and has been physically or mentally injured because he or she was not adequately supervised, or when the health, safety, or well-being of any child has been otherwise seriously jeopardized due to a program's non-compliance with any of the provisions of He-C 6916, the enrolled facility-based child care ~~program provider~~ or ~~his or her~~ an authorized representative designee shall fully inform the child's parent(~~s~~) of the details of the punishment, or of the incident which injured their child or jeopardized their child's health, safety or well-being, including the following details:

- (1) The name of who was involved in, and who witnessed the incident, while keeping the identities of other children confidential;
- (2) What occurred prior to and following the incident;
- (3) When and where the incident occurred; and
- (4) Any action that has been or will be taken by the program as a result of the incident.

(e) The details of the incident outlined in (e~~d~~) above shall be provided to the parent(~~s~~) of the child or children involved in writing by the close of the next business day.

He-C 6916.14 Appropriate Precautions in Transporting Children.

(a) Programs who wish to take children on routine, unplanned local trips, or scheduled field trips shall obtain a signed and dated permission slip from each child's parent, which specifies all approved destinations and activities. This permission slip shall include the destination of the trip(~~s~~) and the estimated time that the parent(~~s~~) can expect the child to return to the program.

(b) The following shall be ~~taken by and~~ accessible to staff ~~to~~on any field trip:

- (1) An attendance record which includes the name and age of each child;
- (2) Copies of the registration and emergency information form required in He-C 6916.07(a), for each child; ~~and~~
- (3) A first aid kit adequate to meet the needs of the children in attendance on the field trip;
and

~~(4) All~~ All medications requiring administration during the hours of the field trip, as required by which shall be available and administered as required under He-C 6916.09; and

(5) All emergency medications as required by He-C 6916.08 for the children in attendance on the field trip.

(c) Items referenced in (b)~~(2) — (3)~~ above for each child shall remain with an individual who is with the child, including during transport.

(d) During any field trip, at least one staff ~~or volunteer member~~ shall have access to a working phone, in case of emergency, and that phone number shall be available to parent(s) ~~and/or~~ to staff remaining at the facility.

(e) Children who are transported by the program or during any ~~program-program~~-sponsored activity shall be transported in vehicles which are:

(1) Registered, insured, and inspected in accordance with the laws and rules of the state of New Hampshire;

(2) Driven by individuals who are at least 18 years of age and hold a valid driver's license; and

(3) Maintained in ~~a~~-safe operating condition.

(f) Staff shall be prohibited from using mobile electronic devices while operating a vehicle to transport children, including hands-free operation.

(g) The number of persons who are transported by the program or in any vehicle during any ~~program-program~~-sponsored activity shall be limited to the number of persons the vehicle is designed to carry.

(h) In all vehicles, ~~age-age~~-appropriate child restraints or seat belts shall be provided for and used by each child in accordance with RSA 265:107-a.

He-C 6916.15 ~~Staff-to-Child Ratio and Group Size.~~

(a) The ~~staff-staff-to-to~~-child ratio for school-age programs shall be one staff for 15 children with a maximum group size of 60.

(b) In addition to the staffing requirements in (a) above, programs shall have a second staff person in the building when 13 or more children are present.

(c) Programs shall provide a minimum of 40 square feet of usable indoor space per child. Indoor active play space shall be available to children daily.

(d) In addition to (a) above, programs offering drop-in care shall monitor attendance records to ensure compliance with group size and ratios. If there is a pattern of exceeding ratio and group size then additional staff shall be added. Attendance records shall be kept on file for 6 months for review by the department.

(e) The only exception to (a) above shall be when children combine for time-limited activities, such as meals, snacks, daily meetings, short stories, special guest presentations, or other special events, provided that all children have sufficient ~~room-space~~ for the activity.

He-C 6916.16 Monitoring Visits, Monitoring Statements, Program Improvement Plans, and Enforcement.

- (a) The department shall conduct an announced monitoring visit prior to enrollment.
- (b) The department shall conduct an annual announced monitoring visit for all enrolled facility-based child care providers as a condition of ~~to~~ maintaining enrollment.
- (c) The department shall issue a monitoring statement to the program for each monitoring visit.
- (d) At the close of any monitoring visit or when an investigation is concluded, or as soon as possible thereafter, the department shall review with the program a summary of any violations of He-C 6916 found during the visit.
- (e) The department shall issue the monitoring statement via email, if a valid email address has been provided by the program, or by U.S.-United States mail if an email address has not been provided.
- (f) Programs shall:
 - (1) Display the monitoring statement and program improvement plan approved by the department for the most recent visit to the program in a prominent location which is accessible to parent(s), and notify clients and prospective clients of their location;
 - (2) Make available upon request to clients and prospective clients a copy of the monitoring statement ~~and program improvement-~~ plan approved by the department for the most recent visit to the program immediately preceding the visit represented on the monitoring statement posted in accordance with (1) above; and
 - (3) Not alter the monitoring statement or program improvement plan issued by the department.
- (g) Programs shall complete a program improvement plan for each violation included on the monitoring statement, which shall include the following:
 - (1) The action the program has taken or will take to correct ~~the each~~ violation(s);
 - (2) The steps the program will take to ensure compliance with He-C 6916 and the applicable statutes in the future;
 - (3) The date by which each ~~of the~~ violations was corrected or will be corrected;
 - (4) The interim measures the program has implemented to protect the health and safety of children, when the violation cannot be corrected immediately; and
 - (5) The dated signature of the enrolled child care provider or their authorized representative.
- (h) Programs shall complete program improvement plans and return them to the department in accordance with the following:
 - (1) The program improvement plan shall be submitted to the department within 3 weeks 21 calendar days of the date that the monitoring statement is sent out by the department; and
 - (2) The names of individuals, including children, shall not be included in the program improvement plan.

(i) When a submitted program improvement plan in accordance with (g) and (h) above is not acceptable to the department in correcting a violation, the department shall issue a directed program improvement plan to the program.

(j) Notwithstanding (g), (h), and (i) above, when the department determines that there is an imminent threat to the health or safety of children, it shall issue a program improvement plan to the program, without first offering the program an opportunity to complete a program improvement plan.

(k) When a program receives a directed program improvement plan issued by the department, in accordance with (i) or (j) above, it shall:

(1) Add any additional details regarding the improvement plans the program feels are necessary; and

(2) Complete and return the program improvement plan in accordance with (g)(5) and (h) above.

(l) Notwithstanding (a) through (g) above, when a program has repeatedly violated standards set forth in He-C 6916 or has violated a rule or statute which resulted in physical or mental injury to a child, or caused a child to be in danger of physical or mental injury, the department shall initiate enforcement action pursuant to He-C 6914.08 without first requesting that the program submit a program improvement plan.

(m) Programs shall comply with all approved program improvement plans.

(n) The department shall conduct ~~follow~~ follow-up announced monitoring visits as needed to monitor the implementation of the program improvement plan.

(o) The department shall post ~~on the department website~~ the monitoring statement and program improvement plan within 5 days of the date of issue on the department website.

(p) Programs shall maintain all records, whether in electronic or paper format, required by He-C 6916:

(1) On file on the premises of the program; and

(2) Accessible and available for review by the department, upon request, for one year, unless otherwise specified.

(q) Child care program ~~personnel~~ staff shall not:

(1) Make false or misleading statements to the department, whether verbal or written; or

(2) Falsify any documents, other written information, or reports issued by or required by the department under He-C 6912, He-C 6914, He-C 6916, and He- C 6920.

(r) The department shall revoke or deny a new applicant or renewal as an enrolled child care provider in accordance with He-C 6912, He-C 6914, He-C 6918, and He-C 6920.

He-C 6916.17 Informal Dispute Resolution.

(a) An opportunity for informal dispute resolution shall be available to any facility-based program who disagrees with a citation issued by the department, per RSA 170-E:10-a.

(b) When requesting an informal dispute resolution, the facility-based program shall:

(1) Submit a written notice to the department requesting an informal dispute resolution no later than 14 days from the date of issuance of the monitoring statement; and

(2) Include in the notice why the facility-based program believes that the citation was issued erroneously as noted in the monitoring statement.

(c) In accordance with RSA 170-E:10-a, written notice of the department's decision shall be provided to the facility-based program within 30 days from receipt of the request and receipt of any and all information from the facility-based program.

(d) An informal dispute resolution shall not be an option for any facility-based program against whom the department has initiated a fine, or action to suspend, revoke, deny or refuse to renew enrollment as a child care provider.

He-C 6916.18 Waiver of Rules.

(a) Programs that wish to request a waiver of a rule shall provide in writing or electronically the following information:

(1) The program name, address, phone number, and ~~Bridges the bridges database~~ resource identification ID-number assigned by the department for electronic payments;

(2) The rule numbers for which the waiver is being requested;

(3) A brief explanation of the reason for the waiver, the length of time for which the waiver is requested, and any effect the granting of the waiver will have on the health and safety of the children in the program;

(4) The number and age range of children who will be affected by the waiver;

(5) The signature of the enrolled child care provider or their authorized representative;

(6) Signatures of parents or copy of a notice which has been shown to, or mailed- to each parent, explaining the specifics of the waiver request and informing parents that they may call the department if they have any concerns about the requested waiver; and

(7) The plan for future compliance after the waiver period is over.

(b) A waiver shall be granted to the applicant or enrolled child care provider if the department determines that the alternative proposed by the applicant or enrolled provider:

(1) Meets the objective or intent of the rule;

(2) Does not negatively impact the health, safety, or well-being of the children; and

(3) Does not negatively impact the operation of the program.

(c) When a waiver is approved, the program's subsequent compliance with the alternatives approved in the waiver shall be considered equivalent to complying with the rule from which waiver was sought.

(d) The department shall not approve any request for a waiver of any of the provisions relevant to state or federal law or any rules of other state agencies which are referred to in this chapter.

(e) A waiver request shall be denied when any of the following occurs:

- (1) The rule for which a waiver is being requested is related to fire safety or environmental health or safety;
- (2) The program has been found in violation of one or more of these critical rules and has not corrected ~~those the~~ violations;
- (3) The department finds that approval of the requested waiver will jeopardize the health or safety of children;
- (4) The department finds that approval of the requested waiver will impair the program's ability to adequately care for children;
- (5) The departments finds that approval of the requested waiver will impair the operations of the program; or
- (6) The department determines that the program has not submitted a written plan for compliance with the rule or an acceptable plan for satisfying the intent of the rules as an alternative to complying with the rule.

He-C ~~6916.18~~6916.19 Complaints and Investigations.

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

- (1) The alleged violation~~(s)~~ 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 child who has first-hand knowledge regarding the allegation~~(s)~~;
- (3) There is sufficient specific information for the department to determine that the allegation~~(s)~~, if proven to be true, would constitute a violation of any of the provisions of He-C 6916; or
- (4) The complaint is received from any source and alleges a violation that occurred at any time if the complaint alleges:
 - a. Physical injury or abuse;
 - b. Verbal or emotional abuse; or
 - c. The danger of physical injury to one or more children.

(b) A complaint investigation shall be conducted when the department receives a complaint which meets the conditions specified in (a) above and which contains an allegation~~s~~ of violation of He-C 6916.

(c) When the complaint is determined to be founded, a monitoring statement shall be issued listing the violations found as a result of the investigation, and any other violations found during the visit, which shall be considered and treated as a finding of a complaint visit.

(d) When the complaint is determined to be unfounded, a notice shall be sent to the program advising that the complaint was unfounded.

He-C ~~6916.19~~6916.20 Confidentiality.

(a) Except for law enforcement agencies or in an administrative proceeding against the applicant or enrolled programs, the department shall keep confidential any information collected during an investigation, unless it receives an order to release, destroy, or take any action relating to the information from a court of competent jurisdiction.

(b) When the department determines that any child was the victim of corporal punishment, or other harsh punishment or treatment, or has been physically or mentally injured because ~~he or she~~the child was not supervised, or any child's health, safety, or well-being was otherwise jeopardized due to a program's non-compliance with He-C 6916, the department shall contact the child's parent(s) to ensure that staff have fully informed the parent(s) about the corporal punishment, or other harsh punishment or treatment, or the incident which injured their child or placed their child at risk, in accordance with He-C 6916.13(e).

~~— (c) A provider shall maintain all records, whether in electronic or paper format, required by He-C 6916:~~

~~(1) On the premises; and~~

~~(2) Accessible and available for review by the department, upon request, for one year, unless otherwise specified.~~

~~(c)~~ Programs shall keep confidential all records required by the department pertaining to the admission, progress, health, and discharge of children under their care and all facts learned about children and their families with the following exceptions:

(1) Programs shall allow the department access to all records that programs are required by department rule or state statute to keep, and to such records as necessary for the department to determine staffing patterns and staff attendance; and

(2) Programs shall release information regarding a specific child only as directed by a parent of that child, or upon receipt of written authorization to release such information, signed by that child's parent.

~~(c)~~ In addition to (c) above, programs shall discuss or share information regarding the admission, progress, behavior, health, or discharge of a child with the child's parent(s) in a manner that protects and maintains confidentiality for both the child and the child's parent(s).

Readopt with amendment He-C 6917, effective 5-24-18 (Document #12536), to read as follows:

Chapter He-C 6917 HEALTH AND SAFETY RULES FOR ~~FAMILY, FRIEND, OR NEIGHBORIN-~~
HOME LICENSE-EXEMPT CHILD CARE PROVIDERS RECEIVING CHILD CARE SCHOLARSHIP

Statutory Authority: RSA 161:2, XII, RSA 161:4-a, III

He-C 6917.01 Purpose. The purpose of this part is to set forth the minimum standards for health and safety ~~of~~ requirements for license-exempt child care providers who provide child day care services for children and families receiving child care scholarship, pursuant to RSA 170-E:6-a, RSA 170-E:3, I(c), and (h), and 45 CFR Part 98.41 and 98.42.

He-C 6917.02 Scope. This part shall apply to any person who is enrolled as a license-exempt provider ~~pursuant to He-C 6914 to provide~~ providing child day care services to ~~children and families~~ receiving child care scholarship pursuant to He-C 6914, and is exempt from licensure pursuant to RSA 170-E:3, I(c) and (h).

He-C 6917.03 Definitions.

(a) “Caretaker relative” means a specified relative, as defined in RSA 167:78, III, namely “a specified relative, other than a parent, who provides care and parental control to a dependent child.”

(b) “Child” means “child” as defined in RSA 170-E:2, II, namely “any person under 18 years of age”, pursuant to RSA 170-E:2, II.

(~~b~~c) “Child care” means the act of providing supervision, food, activity, and rest for a child for any portion of a 24-hour day, in order to promote healthy child development and assist the child’s parent(s), caretaker relative, or legal guardian in preparing for, securing, or maintaining employment or ~~employment~~ employment-related education or training; for an approved activity that supports service or case plan goals ~~apart from the child’s parent, caretaker relative or legal guardian.~~

(c) “Child Care Resource and Referral” means an agency contracted with the department to provide free child care resource and referral services to families seeking child care.

(d) “Commissioner” means “the commissioner of the department of health and human services,” as defined in RSA 170-E:2, V.

(e) “Corporal punishment” means the ~~use of physical force, physical restraint, or physical actions against a child as a means~~ intentional infliction of physical pain by any means for the purpose of punishment, correction, discipline, instruction, or any other reason.

(f) “Department” means “the department of health and human services” as defined in RSA 170-E:2, VII.

(g) “Developmentally appropriate” means actions, environment, equipment, supplies, communications, interactions, or activities that are based on the developmental level and abilities, the family culture, and the individual needs of each child in care.

(h) “Enrolled child care provider” means a child care provider who has met the requirements- in He-C 6914 and is authorized to receive payment for services from the department. The term includes “registered provider” as defined in RSA 170-E:6-a.

(i) “Foster parent” means an individual who has a license or permit for foster family care, pursuant to He-C 6446.

(j) “Infant” means a child from the time of birth through the age of 18 months old.

(k) “In-home provider” or “provider” means a person an individual who is:

(1) Providing child care in a private home;

(2) Exempt from licensure pursuant to RSA 170-E:3, I(c) or RSA 170-E:3, I(h); and

(3) An enrolled child care provider pursuant to He-C 6914; and

(4) Does not have any staff members or volunteers. One of the following program types:

~~a. “Relative provider” where “the only children in care are the provider’s own children, children related to the provider, and children residing with, the provider” pursuant to, 170-E:3(1); or~~

~~b. “Friend or neighbor provider” where “any number of the provider’s own children, whether related biologically or through adoption, and up to 3 additional children are cared for regularly for any part of the day, but less than 24 hours, pursuant to 170-E:3.~~

(l) “Legal guardian” means an individual who is given legal authority by a court and charged with the duty to provide care, custody, and supervision of the a child or children.

(m) “Monitoring statement” means a written report issued by the department detailing the findings results of a monitoring visit conducted by the department.

(n) “Monitoring visit” means a visit made to the in-home provider by the department for the purpose of assessing compliance with He-C 6914, He-C 6917, and 45 CFR Part 98.41 and 98.42.

(o) “NH Professional Registry” means NH’s New Hampshire’s password-protected electronic database designed to support and track professional development for the early childhood and afterschool school age child care workforce pursuant to He-C 6914.04 (gk) and (h).

(p) “Parent” means an individual who has a birth, adoptive, or step parent stepparent relationship to the child ~~or children~~, a foster parent as defined in (ki) above, ~~or~~ a legal guardian as defined in (nl) above, or a caretaker relative as defined in (a) above.

~~(q) “Program” means a license exempt child care provider pursuant to RSA 170-E: 3, I, (e), (f), (g) and (h). The term includes “in-home provider” and “facility based program.”~~

~~(rq) “Program improvement plan” means a written plan developed by a provider, and approved by the department, in response to a monitoring statement, assessment, and stating how the program provider will come into compliance with the rules.~~

~~(sr) “Related” means “related” as defined in RSA 170-E:2, XIII, namely, “any of the following relationships by blood, marriage, or adoption: parent, grandparent, brother, sister, stepparent, step grandparent, stepbrother, stepsister, uncle, aunt, niece and nephew, first cousin, or cousin.” “Relative” means grandparents, great grandparents, siblings who live in a separate residence, aunts and uncles, pursuant to 45 CFR 98.42(c).~~

~~(ts) “Supervision” means being present with children in child care, knowing their identities of children in care, the number of children present, identities, and their whereabouts, observing their activities, and being in close enough proximity to have all children within sight, or hearing, and allowing intervention, if needed, to safeguard each child from accident or injury.~~

~~(ut) “Toddler” means a child 19 months through the age of 35 months old.~~

He-C 6917.04 Professional Development.

(a) Every 12-month period, bBeginning on the date of enrollment, the provider shall complete a minimum of 6 hours of professional development in all of the health and safety topics listed in He-C 6914.04(e)(1)-(11) and h(1)(2), and annually thereafter:

- (1) Complete 2 hours of ~~annual~~ professional development in any of the health and safety topics ~~pursuant to listed~~ in He-C 6914.04(~~de~~)(1)-(11); ~~and (eh)~~-(1)-(2);
- (2) Complete 2 hours of ~~annual~~ professional development in any of the topic areas listed in ~~accordance with~~ He-C 6914.05 (a)~~;~~(3)(~~a~~); ~~(fm)~~; and
- (3) Upload documentation of completion of professional development in (a)-(1) and (2) above to the NH Professional Registry.

~~(b) CPR and first aid trainings shall not be counted in the annual required professional development hours specified in (a), (1) and (2) above.~~

~~(c) Providers enrolled with the department prior to October 1, 2017, who have maintained enrollment, shall comply with the requirements in (a)(1) and (2) above by March 30, 2019. Thereafter annual professional development shall be completed by March 30th.~~

He-C 6917.05 Building and Physical Premises Safety.

(a) ~~Both indoor and outdoor Premises~~ premises shall be safe, clean, free of clutter, and in good repair~~maintained in a neat, clean, and safe condition, and free and clear of excess clutter which restrict children's free movement within the program.~~

(b) ~~Programs~~ Providers shall maintain the child care environment ~~free of hazards to children including, but not limited to, the following~~ and ensure the indoor space is:

- (1) Free from Fire fire hazards, electrical hazards, such as overloaded outlets or extension cords, frayed, cracked or crimped cords, or unprotected outlets;
- (2) ~~Electrical hazards~~ Well-ventilated by means of unobstructed mechanical ventilation system or open screened window;
- (3) Free from Cords cords or strings long enough to encircle a child's neck which pose a strangulation hazard and are accessible to children, including, but not limited to, telephone cords and window blind cords;
- (4) Free from Guns guns, weapons, or live or spent ammunition which are not in locked storage;
- (5) Free from accessible Knives knives and sharp objects unless the object is being used under direct supervision of ~~a~~ the provider;
- (6) Free from Heavy heavy furnishings or other heavy items that could easily tip or fall on children and would be likely to cause injury;
- ~~(7) All windows in areas used by children under 5 years of age not protected with guards that prevent exit or fall by a child, but that do not block the outdoor light or restrict air flow;~~
- (8) Free from accessible Loose loose and flaking paint ~~which is accessible to children;~~
- ~~(9) Stairways which are accessible to children younger than 3 years of age and are not equipped with functional, properly latched safety gates;~~

~~(108) Unclean conditions or disrepair which demonstrates a lack of regular cleaning or maintenance~~Well-lit to allow for the supervision of children and for the provider and children to move about safely;

~~(119) Free from Damp damp~~ conditions which result in visible mold or mildew or a musty odor;

~~(1210) Free from The use of trampolines use~~ during child care hours, with the exception of small indoor trampolines intended for individual use with direct ~~adult-provider~~ supervision only;

~~(1311) Free from Empty empty~~ plastic bags, or bags which pose a suffocation hazard, which are accessible to children under the age of 3 years; and

~~(1412) Free from accessible Items-items~~ labeled “keep out of reach of children” ~~which are accessible to children without~~ unless the item is non-toxic and being used under the direct supervision of ~~a~~the provider.

(c) All windows used for ventilation shall include screens in good repair, to prevent insects from entering the building. Windows and glass doors shall be constructed, adapted, or adjusted via the use of window guards or other means to prevent injury to children.

(d) Stairways with more than 3 steps shall be equipped with handrails and all stairways which are accessible to children younger than 3 years of age shall be equipped with functional, properly latched safety gates.

(e) Construction, remodeling, or alteration of structures during child care operations shall be done in a manner as to prevent exposure of children to hazardous or unsafe conditions including, but not limited to, fumes, dust, construction materials, and tools which pose a safety hazard.

~~(df) Programs-Providers~~ shall ensure that all indoor areas used by children;

(1) Have a safe, functioning heating system;

(2) Include protection for children from exposed heat sources which present a hazard, including but not limited to baseboard heaters, radiators, fireplaces, and woodstoves; and

(3) Have working smoke detectors on each level.

~~(eg)~~ Portable electric space heaters shall:

(1) Be inaccessible to children;

(2) Bear the safety certification of a recognized laboratory such as Underwriters Laboratory (UL) or Electro Technical Laboratory (ETL); and

(3) Be installed and operated in accordance with the manufacturer’s specifications.

~~(fh)~~ Outside areas which are accessible to children shall be free of hazards including, but not limited to, ~~the following~~:

(1) Unprotected pools, wells, or other bodies of water;

(2) Lawn and farm machinery;

- (3) Trash, litter, or debris;
- (4) Animal feces; and
- (5) ~~Other~~ Any other dangerous items or substances.

(gi) In outside areas used by children, stationary play equipment accessible to children shall not be over hard surfaces such as cement or asphalt.

(hj) Play areas shall be enclosed by a fence if they are determined by the department to be unsafe because they are on a roof, or located adjacent to any dangerous area.

(ik) All fencing shall be designed to restrain children who have not yet entered school from climbing out of, over, under or through the fence.

(jl) All swimming pools and wading pools shall be inaccessible to children except during supervised activities.

~~(km) Programs shall remove standing water. Wading pools shall:~~

- ~~(1) Be emptied and cleaned after each use;~~
- ~~(2) Be stored so that water does not collect in them; and~~
- ~~(3) Not contain water that is more than 10 inches deep.~~

~~(ln) Programs Providers~~ shall have a safe supply of water under pressure available for drinking and household use.

~~(mo) Programs Providers shall provide at least one toilet and one wash basin not use portable toilets, chemical toilets, or any other toilets which are not attached to a functional sewage disposal system, except for potty chairs designed for use by older infants and toddlers.~~

~~(n) Except for potty chairs for use by older infants and toddlers, programs shall not use any toilets which are not attached to a functional sewage disposal system.~~

(op) During all hours of operation there shall be functional sewage disposal facilities.

~~(q) Smoking shall be prohibited in the building during operating hours.~~

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He-C 6917.06 Handling, Storage, and Disposal of Hazardous Material.

(a) All toxic and flammable materials and tobacco products shall be stored in cabinets which are locked, or secured with child proof latches, or otherwise out of reach of children.

(b) Pesticides shall not be used in areas used by children while children are present, and any treated indoor area shall be aired out per manufacturers' instructions prior to allowing children to return to that area.

(c) ~~Programs Providers~~ shall adhere to state ~~laws~~ and federal rules and regulations in regards to lead paint and asbestos removal.

(d) Providers serving diapered children and children who are not toilet trained shall have a designated diaper changing area, which shall:

- (1) Be located adjacent to or in close proximity to a designated handwashing sink to allow access for handwashing without having to open doors or gates or have physical contact with other children;
- (2) Have a non-porous washable surface, which shall be used exclusively for diaper changing and sanitized after each diaper change;
- (3) Contain a covered, hands-free receptacle, lined with a plastic bag, and located within the reach of the diaper changing area for disposal of soiled disposable diapers and cleansing articles; and
- (4) Not be located in kitchens or in food preparation or food service areas, or on surfaces where food is prepared or served.

He-C 6917.07 Emergency Preparedness and Response Planning.

(a) Providers shall ensure that for each child, upon the child's first day in attendance, there is a ~~child registration and emergency information~~ "Child Care Registration and Emergency Information for License Exempt Programs" (March 2023) form completed and signed by a the parent, on file at the program, which contains:

- (1) Full legal name of the child;
- (2) Child's date of birth;
- (3) Date of enrollment at the provider;
- (4) The name, physical address, and mailing address of the parent responsible for the child;
- (5) Telephone numbers for the child's parents and instructions as to how the parents can be contacted during the hours that the child is at the program;
- (6) Email addresses for the parents, if available;
- (7) The name, address, telephone number, and relationship of at least one person who will assume responsibility for the child, if for any reason, the parents cannot be reached immediately in an emergency;
- (8) Any chronic conditions, allergies, or medications to be administered in the event of sudden illness or injury;
- (9) Written parental permission for first aid treatment;
- (10) Written parental permission for emergency medical transportation and treatment;
- (11) The name and telephone number of each child's physician or health care provider; and
- (12) Names, addresses, telephone numbers, and relationships of any person(s) other than parents who are authorized to remove the child from the provider.

(b) There shall be a telephone that is operable and accessible to the provider during all operating hours for incoming and outgoing calls.

(c) Pursuant to 45 CFR Part 98.41, ~~programs-providers~~ shall develop an emergency operations plan ~~“(EOP”-)_ which shall include procedures~~ for responding to natural, human-caused, or technological incidences, which shall contain procedures including, but not limited to:

- (1) Evacuation;
- (2) Relocation;
- (3) Shelter-in-place;
- (4) Lockdown;
- (5) Communication and reunification with families;
- (6) Continuity of operations;
- (7) Accommodations of infants and toddlers;
- (8) Accommodations of children with disabilities; and
- (9) Accommodations of children with chronic medical conditions.

(d) Providers shall practice no less than 2 components of their EOP with children, ~~when appropriate,~~ ~~but~~ no less than twice per year and maintain a written record of the practiced components.

(e) If a child is seriously injured while in the care of the provider, including fractures, dislocations, stitches, second or third degree burns, concussions, or loss of consciousness, or any other injury which results in calling 911, requires emergency medical treatment or hospitalization, the provider shall:

- (1) Notify the child’s parent~~(s)~~ immediately;
- (2) Notify the department within 48 hours; and
- (3) ~~Within one week provide~~Provide to the department a written report which details the nature and circumstances of the serious injury within one week of the incident.

(f) ~~Any occurrence of a missing child shall be reported to~~If a child goes missing while in the care of the provider, the provider shall call emergency police services, or 911, as soon as ~~a~~the provider has determined that the child cannot be promptly located on the premises of the child care ~~program~~provider.

(g) Providers shall report any occurrence of a missing child as described in (f) above to the department within 24 hours.

(h) If a child dies while in childcare, providers shall:

- (1) Notify emergency personnel and the child’s parent~~(s)~~ immediately;
- (2) Notify the department of the death within 24 hours; and
- ~~(3) Provide developmentally appropriate information for children and parents regarding the death of the child; and~~
- ~~(4) Within 72 hours provide~~Provide to the department a written report which details the circumstances which led up to the death within 72 hours of the incident.

(i) In addition to the reporting requirements under (g) above, providers shall, upon request, provide the department with any other available information regarding the death.

He-C 6917.08 Prevention of and Response to Emergencies Due to Food and Allergic Reactions.

(a) ~~Each~~ Providers shall obtain an allergy care plan, signed by the child's physician, from the parent of each child with a food allergy of other ~~an~~ allergy, which results in a serious reaction, ~~shall have a written care plan from the child's physician~~ that includes at a minimum:

(1) Instructions regarding the food(s) or other allergens to which the child is allergic and steps to be taken to avoid ~~them~~ consuming or coming into contact with those allergens;

(2) ~~A detailed treatment plan to be implemented in the event of an allergic reaction, including the names, doses, and methods of prompt administration of any medications~~ A list of specific symptoms that would indicate the need to administer one or more of the medications referenced in (3) below; and

(3) ~~Specific symptoms that would indicate the need to administer one or more medications~~ Details describing the course of action to take in response to an allergic reaction, including the name, dose, and method of prompt administration of any required medication.

(b) With permission of the parent ~~or guardian~~, each child's ~~allergies~~ allergy care plan shall be posted prominently ~~and~~ wherever the child might come in contact with the allergen.

(c) Providers shall immediately notify the parent(s) ~~immediately~~ of any suspected allergic reactions, as well as the ingestion of or contact with a known allergen even if a reaction did not occur.

(d) Providers shall ~~contact~~ call 911 ~~whenever~~ immediately after epinephrine has been administered.

(e) Providers shall comply with dietary restrictions as requested in writing by the parent(s) of each child, due to food allergies, religious, or philosophical beliefs.

He-C 6917.09 Administration of Medication ~~and Immunizations.~~

(a) Providers shall administer any medication, treatment, or other remedy as required under the provisions of the Americans with Disabilities Act of 1990.

(b) Providers shall only administer medication with:

(1) A valid and current prescription or signed and dated written instructions for administering the medication from the child's physician; and

(2) ~~written~~ Signed and dated written permission from the parent.

(c) Administration of non-prescription topical substances may be performed by the provider, with written permission from the child's parent.

(d) In the event of a medication error in the administration of medication, ~~the providers~~ shall notify the child's parent(s) immediately.

(~~e~~) For any chronic condition requiring medication that is to be administered for more than 12 months, the written parental authorization specified in (b)(2) above shall be updated annually.

(f) The written instructions for administering the medication from the child's physician specified in (b)(1) above shall be updated by the parent, and on file at the provider, if there is any alteration of any kind to the administration of the medication.

(e) Providers shall maintain a written log for each dose of medication, excluding topical substances, administered to each child, ~~excluding topical substances.~~

(f) In the event of an error documenting the administration of medication, ~~the providers~~ shall notify the child's parent~~(s)~~ by the end of the day in which the error occurred.

(g) All medication shall be:

(1) Inaccessible to children;

(2) Stored at the temperature and conditions recommended by the manufacturer or as directed on the prescription label; and

(3) Labeled with the child's name to ensure correct identification of each child's medication.

(h) Medications such as insulin, inhalers and ~~epi-pense~~epinephrine shall be immediately accessible to providers caring for children requiring such medications to assure timely administration when needed, and in accordance with instructions in He-C 6917.08(a)(2).

(i) All prescription or non-prescription medication and topical substances shall be kept in the original containers or pharmacy packaging.

~~—(j) Documentation of immunizations, in accordance with RSA 141-C:20 a, RSA 141-C:20 b and He P 301.14, shall be on file for each child cared for beginning on the first day the child is in attendance at the program.~~

~~—(k) Exemptions from the immunizations required under (j) above shall be in accordance with RSA 141-C:20 e and pursuant to 45 CFR Part 98 for children experiencing homelessness or children in foster care. Providers may enroll children and allow for 60 days for families to obtain and provide documentation of immunizations.~~

~~—(l) Providers shall not be required to obtain immunization records for children whose parents object in writing, on the grounds that such immunizations are contrary to their religious beliefs, or for children with medical conditions that contraindicate immunization.~~

He-C 6917.10 Prevention and Control of Infectious Diseases, Including Immunizations.

(a) Providers ~~and children~~ shall wash their hands with liquid soap and warm running water as needed, and:

(1) After each diaper change or toileting;

(2) After handling any bodily fluid;

(3) After cleaning up or handling garbage;

(4) After playing outdoors;

(5) Before and after eating;

(6) Before and after administering medication; and

(7) Before and during any food preparation or service as often as necessary to remove soil and contamination and prevent cross-contamination when changing tasks or from raw to ready-to-eat foods.

(b) Providers shall:

(1) Teach children the importance of handwashing with liquid soap and warm running water; and

(2) Instruct, encourage, remind, or assist children as needed throughout each day to wash their hands as necessary to comply with (a)(1) through (5) above.

(3) ~~wash~~ Wash the hands of infants as necessary to comply with (a)(4) and (a)(5) above.

(c) Providers shall observe each child for symptoms of illness or injury throughout the day and contact the parent(s) if a child has:

(1) More than one episode of vomiting in one day;

(2) More than one episode of diarrhea in one day;

(3) Uncontrolled coughing or wheezing;

(4) Skin lesions which have not been diagnosed or treated by a licensed health care practitioner; or

(5) An oral temperature of 101 degrees Fahrenheit or higher or an under arm temperature of 100 degrees Fahrenheit or higher combined with any of the following:

a. Diarrhea;

b. Rash;

c. Ear-ache;

d. Sore throat; or

e. Vomiting.

(d) When any provider or child has symptoms of or are known to have a communicable disease:

(1) Any spills of bodily fluids shall be immediately cleaned and sanitized;

(2) Persons involved in cleaning surfaces contained with bodily fluids shall:

a. Wear protective disposable gloves while cleaning, disinfecting, and sanitizing the contaminated surface; and

b. Immediately wash their hands with liquid soap and warm running water after discarding the gloves;

(3) Any materials, including disposable gloves and diapers contaminated by bodily fluids, shall be disposed of in a plastic bag with a secure tie or in a covered, plastic bag-lined, hands-free receptacle; and

(4) The provider shall contact the bureau of disease control and prevention at (800) 852-3345, ext. 4496 for instructions regarding whether the ill individual is required to be excluded from child care and to determine reporting requirements in accordance with RSA 141-C:7 and He-P 301.03(d) and (e), He-P 301.03(i) and He-P 301.05(i)(3)b.

(e) All foods prepared and served to children shall be free from spoilage, filth, ~~or~~ and other contamination.

(ef) Providers shall check children in diapers and change diapers and clothing if they are soiled or wet as needed, and at minimum once every two hours.

(fg) ~~Programs-Providers~~ serving diapered children shall have a diaper changing area which shall:

(1) Not be located in kitchens or in food preparation or food service areas or on surfaces where food is prepared or served;

(2) Be located near a hand washing sink to allow access for hand washing; and

(3) Have a non-porous, washable surface, which shall be disinfected after each diaper change and used exclusively for diaper changing.

(gh) The plastic bag containing the soiled diapers and cleansing articles shall be removed daily, securely closed, and placed outside in covered garbage cans for collection or removal at regular intervals.

(hi) Providers shall clean and disinfect bathroom facilities whenever visibly soiled but at a minimum of ~~at least weekly~~ once per week.

(ji) All bedding used by children in care shall be cleaned at least once ~~a~~ per week and more frequently if soiled.

(jk) Providers shall ensure that the presence of pets ~~in the program~~ does not present a hazard to the children.

(kl) When there are pets in a provider's home, ~~providers~~ shall:

(1) Ensure dogs and cats have a current vaccination for rabies;

(2) Keep ~~cages that house small animals, fish tanks, and~~ litter boxes away from food preparation, or food service areas, ~~or in as well as any other~~ areas where children play; and

(3) Ensure children do not have direct contact with animal feces or urine either indoors or outdoors;

(m) Documentation of immunizations, in accordance with RSA 141-C:20-a, RSA 141-C:20-b, and He-P 301.14, shall be on file for each child on the first day the child is in attendance with the provider.

(n) Exemptions from the immunizations required under (m) above shall be in accordance with RSA 141-C:20-c and pursuant to 45 CFR Part 98.41(a)(1)(i)(C) for children experiencing homelessness or children in foster care. Providers may enroll children and allow for 60 days for families to obtain and provide documentation of immunizations.

(o) Providers shall not be required to obtain immunization records for children whose parent objects, on the grounds that such immunization is contrary to their religious beliefs, or for children with medical conditions that contraindicate immunization.

(p) Documentation for the exemptions listed in (o) above shall be on file with the provider, and shall be in accordance with RSA 141-C:20-c.

He-C 6917.11 First Aid and Pediatric Cardiopulmonary Resuscitation (CPR).

(a) Providers shall have on the premises a selection of non-expired first aid supplies adequate to meet the needs of the children in care.

(b) If a child receives an injury or an incident occurs requiring first aid treatment, ~~medical treatment, or medical consultation, a~~ the provider shall inform the child's parent(s) of the injury ~~or illness~~ on the date the child is injured ~~or becomes ill~~.

(c) ~~If any child has a serious injury while in child care resulting in medical treatment by a physician, or other health care professional, or requiring hospitalization, or if CPR is performed on a child while in child care of the provider,~~ the providers shall:

(1) Notify the child's parent(s) immediately;

(2) Notify the department within 48 hours; and

(3) ~~Within one week p~~Provide to the department a written report which details the nature and circumstances ~~of the serious injury which led to CPR being performed within one week of the incident.~~

(d) Providers shall not serve foods which can cause a choking hazard to children younger than 3 years of age or to children who have been identified as having chewing and swallowing difficulties, including but not limited to:

(1) Spoonfuls of peanut butter;

(2) Whole or rounds of hot dogs or sausage;

(3) Whole grapes;

(4) Hard candy and chewing gum;

(5) Raw carrot rounds, peas or celery;

(6) Chips or hard pretzels;

(7) Marshmallows;

(8) Nuts or seeds;

(9) Popcorn; and

(10) Other hard or ~~eylinder-cylinder~~-shaped foods that may pose a choking hazard.

He-C 6917.12 Child Development.

(a) During the operating hours of ~~child care~~~~the program~~, parent(s) shall have ~~an~~~~the~~ opportunity to communicate with ~~the providers~~ who cares for their child.

(b) Children shall be within sight or hearing of ~~child care providers at all times.~~

(c) Provided that written ~~permission is on file,~~ a provider may allow school-age children 72 months and older, ~~who are enrolled in a full day school program,~~ to play outside when a provider is inside, or to leave the premises of the ~~program~~~~provider,~~ unsupervised, to participate in a specific activity.

(d) Providers ~~shall not leave infants or toddlers unattended in seating, carrying or in holding devices such as car seats or infant seats placed on counter tops, tables or other elevated surfaces.~~

(e) Providers shall provide toys, equipment, and learning materials that are:

(1) Available and accessible to children;

(2) Safe and in good repair; ~~and~~

(3) Cleaned on a regular basis; ~~and~~

(4) Developmentally appropriate.

(f) Infants shall not be placed in any equipment, ~~that which~~ requires them to support their heads on their own if they have not yet ~~acquired~~~~developed~~ that the ability to do so.

(g) Baby walkers with wheels shall be prohibited ~~in all programs.~~

(h) Providers shall not allow children younger than 3 years of age to have access to toys, toy parts, and other materials which pose a choking risk or are small enough to be swallowed, such as, but not limited to, coins, balloons, or exposed foam padding.

(i) Providers shall provide daily opportunity for outdoor physical activity in the absence of extreme weather.

(j) All media, including television, video, or electronic devices shall be age and developmentally appropriate, and providers shall comply with parental restrictions regarding the use of electronic media for their child.

(k) Providers shall nurture and encourage each child in care by providing each child with a variety of developmentally appropriate learning and social experiences and establishing and maintaining a learning environment that provides for the emotional well-being of each child.

(l) ~~Providers shall guide children's~~When a child is engaging in unacceptable behavior, providers shall using the following techniques:

(1) Establish developmentally appropriate rules or limits for acceptable behavior, which are equitable and consistently applied;

~~(2) Redirecting a child's attention to a desirable activity by providing positive guidance, positively worded directions, and developmentally appropriate explanations for the limits and rules referenced in (1) above when a child is engaging in unacceptable behavior;~~

~~(23) Providing positive guidance Demonstrate desired behavior and problem-solving skills and then redirect children to acceptable behavior;~~

~~(3) Establishing developmentally appropriate rules or limits for acceptable behavior which are fair, consistently applied, realistic, and designed to promote cooperation and respect;~~

~~(4) Providing children with reasons for limits and rules;~~

~~(5) Giving positively worded directions;~~

~~(6) Acting as a role model to demonstrate desired behavior and problem-solving skills and then redirecting children to acceptable behavior;~~

~~(74) Arranging-Arrange equipment, materials, activities, and schedules in a way that promotes desirable behavior; and~~

~~(85) Implementing safe, logical, and natural consequences related to the misbehavior and enforcing those consequences as soon as possible after the misbehavior has occurred.~~

~~(km) Separation, or time out, shall only be used as a method to enable a child to regain control of his or her self, and not as punishment, and as follows:~~

~~(1) Separation shall be brief and appropriate to the child's developmental level and circumstances;~~

~~(2) When a child is separated from the group, the or shechild shall be:~~

- ~~a. Able to see and hear the other children; and~~
- ~~b. Within hearing and sight of a provider.~~

~~(4n) Providers and household members shall not:~~

~~(1) Abuse or neglect children;~~

~~(2) Use rough handling on children;~~

~~(3) Use corporal punishment on children;~~

~~(34) Attempt to control children's behavior by actions which are damaging to children, including but not limited to:~~

- ~~a. Requiring-Require children to stand or sit facing walls or corners;~~
- ~~b. Verbally shaming children;~~
- ~~c. Belittling children;~~
- ~~d. Ridiculing children;~~
- ~~e. Yelling at children;~~
- ~~f. Name calling;~~

~~g. Making verbal threats to children;~~

~~h. Confining infants or toddlers in high chairs or other seating devices or equipment, which restricts their movement, as a disciplinary technique; and~~

~~i. Placing or confining children in equipment that is not appropriate for their age, including but not limited to cribs, playpens, or highchairs;~~

~~(45) Withhold food from children or, forcibly feed children, or discipline children for not eating;~~

~~(5) Discipline children for not eating;~~

(6) Shame, humiliate, threaten or frighten children;

~~(7) discipline~~ Discipline any child/children for toileting accidents, ~~or~~ lapses in toileting habits, or prohibit children from using the toilet as a form of punishment;

~~(78) Use isolation as a form of discipline~~ on children;

~~(8) Prohibit children from using the toilet as a form of discipline;~~

(9) ~~As a means of discipline, require children to:~~

~~a. Sleep or rest; or~~

~~b. Go to their cot, mat, crib, bed, or playpen or other sleeping or rest facilities; and~~ Yell in anger or frustration at or with children;

(10) ~~Discipline a child/children~~ for not sleeping at rest or nap time.;

~~(11) Direct profanity or obscene language at children or use profanity or obscene language in the presence of children;~~

~~(12) Require children to sleep, rest, go to their cot, mat, bed, or playpen or other sleeping or rest facilities, as a form of discipline;~~

~~(13) Confine infants or toddlers in highchairs or other seating devices or equipment, which restricts movement, as a form of discipline; or~~

~~(14) Place or confine children in equipment that is not appropriate for their age, including but not limited to cribs, playpens, or highchairs;~~

~~(mp)~~ Programs-Providers shall develop and implement a written policy to address the limitations of expelling children from ~~the~~ child care ~~program~~ for challenging behaviors.

~~(mp)~~ The policy in (mp) above shall address at a minimum:

(1) The steps the ~~program-provider~~ will take to assist the child in maintaining enrollment prior to expelling the child for challenging behaviors;

(2) Parental al notification requirements regarding their child's challenging behavior; and

(3) The responsibilities of the ~~program provider~~ if the challenging behavior results in a serious safety risk to the child or others within ~~the program~~ child care.

(eq) The written policy in (mo) above shall be provided to parents at enrollment.

(pr) The expulsion policy in (o) above shall only apply when addressing a child's behavior and not a parent's misconduct or the parent's failure to comply with other rules or laws.

He-C 6917.13 Prevention of Sudden Infant Death Syndrome and Use of Safe Sleeping Practices.

(a) Providers shall consult with the parent(s) of each child and observe children on an ongoing basis to determine each child's resting or napping needs.

(b) To reduce the risk of Sudden Infant Death Syndrome (SIDS), infants up to 12 months of age shall be placed on their backs to sleep in a crib or playpen, unless there are written medical orders from the infant's primary health practitioner requiring alternate positioning.

(c) ~~If an infant up to 12 months falls asleep in any place that is not a safe sleep environment, including swings, bouncy seats, or a car safety seat, a provider shall move the infant and place them on their back in their crib or playpen.~~ Infants up to 12 months of age shall not nap or sleep in a car safety seat, beanbag chair, bouncy seat, infant seat, swing, jumping chair, highchair, chair, futon, moses basket, or any other type of furniture or equipment that is not a playpen or crib that meets the requirements of (f) below.

(d) There shall be an individual crib or playpen for each child 12 months of age and younger, except for siblings for whom co-sleeping is part of their family culture, and written authorization is given by the child~~ren~~'s parent(s) and the child~~ren~~'s primary health care provider.

(e) No crib shall be used unless manufactured on or after June 28, 2011 or, if manufactured prior to that date, has a Children's Product Certificate (CPC) or test report from a consumer product safety commission (CPSC) accepted third-party lab, provided by the manufacturer documenting the crib's compliance as required by ~~16 CFR 1219 and required by~~ 16 CFR 1219 and 1220.

(f) ~~Cribs~~ All cribs and playpens required ~~under in~~ (e) above shall:

(1) Be free of cracked or peeling paint, splinters, and rough edges;

(2) Have no more than 2³/₈ inches between slats;

(3) Have no missing, loose, broken, or improperly installed parts, screws, brackets, baseboards, or other loose hardware, or damaged parts on the crib or mattress supports;

(4) Not have corner posts which extend more than 1/16 of an inch above the end panels;

(5) Not have holes or tears in the mesh walls or in the material that connects the walls to the bottom of the crib or playpen;

(6) Have properly fitted sheets which do not have excess fabric or that compress the mattress; and

(7) Have mattresses which:

a. Are in good repair, and free of rips or tears; and

b. Fit the crib or playpen so that the space between the mattress and crib or playpen is not more than 2 adult fingers wide and does not create a suffocation hazard.

(g) Cribs or playpens used by infants up to 12 months of age shall not have bumper pads, blankets, flat sheets, pillows, quilts, comforters, sleep positioners, or any soft items or toys.

~~(h) Providers who smokes shall wash hands and change into fresh clothing, or remove smoke contaminated outerwear, prior to caring for the child to reduce the exposure to thirdhand smoke.~~

(i) When the providers places an infant in a crib or play-pen for sleep, the provider ~~should~~ shall:

~~(1) check-Check~~ to ensure that the temperature in the room is comfortable for a lightly clothed adult;

~~(2) check-Check~~ the infants to ensure that the infant is comfortably clothed and not overheated or sweaty; and

~~(3) Check to ensure~~ that bibs and garments with ties or hoods are removed from the infant.

(j) Children older than 3 months shall not be swaddled or placed in restrictive or weighted sleep suits or devices unless there are written medical orders from the child's primary health practitioner on file at the provider.

(k) A provider may use electronic monitors to supervise sleeping children provided that:

(1) A signed, and dated, authorization stating that parents are aware of and agreeable to the use of an electronic monitor as a means of supervising their child when ~~he or she~~ their child is asleep is obtained from the parent(s);

(2) Sounds from the monitor shall be easily heard by ~~a~~ the provider;

(3) Every 10 minutes ~~a~~ the provider shall observe the sleeping children, in person, to ensure that ~~each~~ the child is safe and comfortable; and

(4) Video monitors shall not replace a physical check of the child by ~~a~~ the provider.

He-C 6917.14 Prevention of Shaken Baby Syndrome and Abusive Head Trauma and Prevention, Recognition, and Reporting of Child Abuse and Neglect.

(a) Providers shall not shake or perform any action likely to cause abusive head trauma, but rather use strategies to cope with a crying, fussing, or distraught infant.

(b) Providers shall allow a parent access to ~~his or her~~ their child ~~(ren)~~ at all times while the child ~~(ren)~~ is in the ~~child-care~~ provider's care, unless allowing access is contrary to a court order or a court-ordered parenting plan pursuant to He-C 6914.07-(a).

(c) Providers shall take prompt action to protect children from abuse, neglect, corporal punishment, ~~or and any~~ other mistreatment by any individual.

(d) Any provider, or other person involved with a ~~program-provider~~ who suspects that child is being abused or neglected shall be a mandated reporter in accordance with RSA 169-C:29 and shall report the suspected abuse to the division for children, youth and families at by calling 1-800-894-5533.

(e) When any child, while in ~~child-care~~ of a provider, is the victim of corporal punishment, or ~~other harsh punishment or treatment and~~ has been physically or mentally injured because ~~the child~~ ~~he or she~~ was not adequately supervised, or when the health, safety, or well-being of any child has been otherwise seriously jeopardized due to a ~~program's provider's~~ non-compliance with any of the provisions of He-C ~~69166917~~, the enrolled child care provider ~~or his or her designee~~ shall fully inform the child's parent(s) of the details of the punishment, or of the incident which injured their child or jeopardized their child's health, safety, or well-being, including the following details:

- (1) The name of who was involved in, and who witnessed the incident, while keeping the identities of other children confidential;
- (2) What occurred prior to and following the incident;
- (3) When and where the incident occurred; and
- (4) Any action that has been or will be taken by the ~~program provider~~ as a result of the incident.

(f) The details of the incident outlined in (e) above shall be provided to the parent(s) of the child or children involved in writing by the close of the next business day.

He-C 6917.15 Appropriate Precautions in Transporting Children.

(a) Except for ~~relative-related~~ providers as defined in He-C 6917.03(r), providers who wish to take children on routine, unplanned local trips, or scheduled field trips shall obtain a signed and dated permission slip from each child's parent, which specifies all approved destinations and activities. This permission slip shall include the destination of the trip(s) and the estimated time that the parent(s) can expect the child to return to the program home where care typically takes place.

(b) During any field trip, providers shall have access to a phone in case of emergency and provide the phone number to parents.

(c) Children who are transported by the ~~program provider~~ shall be transported in vehicles which are:

- (1) Registered, insured, and inspected in accordance with the laws and rules of the state of New Hampshire;
- (2) Driven by individuals who are at least 18 years of age and hold a valid driver's license; and
- (3) Maintained in ~~a~~ safe operating condition.

(d) Providers shall be prohibited from using mobile electronic devices while operating a vehicle to transport children, including hands-free operation.

(e) The number of persons who are transported by the ~~program provider~~ shall be limited to the number of persons the vehicle is designed to carry.

(f) Children younger than 5 years of age who are transported by the ~~program provider~~ or during any ~~program provider~~-sponsored activity shall not be transported in any vehicle exempted from seat belt requirements under RSA 265:107-a, II.

(g) ~~In all programs~~ Providers shall utilize individual, ~~age-appropriate~~ child restraints, or seat belts, which shall be provided for and used by each child in accordance with RSA 265:107-a.

He-C 6917.16 Monitoring Visits, Monitoring Statement, Program Improvement Plan, and Enforcement.

- (a) The department shall conduct an announced monitoring visit prior to enrollment.
- (b) The department shall conduct an annual announced monitoring visit for all enrolled in-home child care providers in order to maintain enrollment.
- (c) The department shall issue a monitoring statement to the program-provider for each monitoring visit.
- (d) At the close of any monitoring visit, when an investigation is concluded, or as soon as possible thereafter, the department shall review with the program-provider a summary of each-any violations of He-C 6917 found during the visit.
- (e) The department shall issue the monitoring statement via email, if a valid email address has been provided by the program-provider, or by U.S. United States mail if an email address has not been provided.
- (f) The provider shall complete a program improvement plan for each violation included on the monitoring statement, which shall include the following:
 - (1) The action the provider has taken or will take to correct the-each violation(s);
 - (2) The steps the provider will take to ensure compliance with these rules and any cited He-C 6917 and the applicable statutes in the future;
 - (3) The date by which each of the violations was corrected or will be corrected;
 - (4) The interim measures the provider has implemented to protect the health and safety of children; when the violation cannot be corrected immediately; and
 - (5) The dated signature of the provider.
- (g) The provider shall develop program improvement plans and return them to the department in accordance with the following:
 - (1) The program improvement plan shall be submitted to the department within 3-weeks21 calendar days of the date the monitoring statement is sent out by the department; and
 - (2) The names of individuals, including children, shall not be included in the program improvement plans.
- (h) When the-a submitted program improvement plan submitted to the department by the provider in accordance with ~~(d)~~ and ~~(ef)~~ above is not acceptable to the department in correcting the violation, for making the improvement, the department shall issue a directed program improvement plan to the provider to ensure compliance with these rules.
- (i) Notwithstanding ~~(df)~~, ~~(eg)~~, and ~~(fh)~~ above, when the department determines that there is an imminent threat to the health or safety of children, it shall issue a program improvement plan to the provider, without first offering the provider an opportunity to complete a program improvement plan.
- (j) When the provider receives a program improvement plan issued by the department, in accordance with (h) and (i) above, it shall:

(1) Add any additional details regarding the action-improvement plans the provider feels are necessary; and

(2) Complete and return the program improvement plan in accordance with (ef) above.

(k) Notwithstanding (a) through (g) above, when a provider has repeatedly violated standards set forth in ~~this rule~~ He-C 6917 or has violated a rule or statute which resulted in physical or mental injury to a child, or caused a child to be in danger of physical or mental injury, the department shall initiate enforcement action pursuant to He-C 6914.08 without first requesting that the provider submit a program improvement plan.

(l) ~~A-The~~ provider shall comply with all approved program improvement plans.

(m) ~~A-The~~ provider shall:

(1) Maintain on file on the premises and make available to clients and perspective clients, a copy of the monitoring statement and program improvement plan; and

(2) Not alter the, monitoring statement, or program improvement plan issued by the department.

(n) Except for relative providers and children being cared for in their own home by a relative as defined in He-C 6917.03(r), the department shall post ~~on the department website~~ the monitoring statement and program improvement plan within 5 days ~~after it is~~ of the date of issued on the department website.

(o) ~~The~~ department shall conduct follow up monitoring visits as needed to monitor the implementation of the program improvement plan.

(p) The department shall revoke or deny a new applicant or renewal as an enrolled child care provider in accordance with He-C 6912, He- C 6914, He- C 6918, and He-C 6920.

He-C 6917.17 Informal Dispute Resolution

(a) An opportunity for informal dispute resolution shall be available to any provider who disagrees with a citation issued by the department, per RSA 170-E:10-a.

(b) When requesting an informal dispute resolution, the provider shall:

(1) Submit a written notice to the department requesting an informal dispute resolution no later than 14 days from the date of issuance of the monitoring statement; and

(2) Include in the notice why the provider believes that the citation was issued erroneously as noted in the monitoring statement.

(c) In accordance with RSA 171-E:10-a, written notice of the department's decision shall be provided to the provider within 30 days from receipt of the request and receipt of any and all information from the provider.

(d) An informal dispute resolution shall not be an option for any provider against whom the department has initiated a fine, or action to suspend, revoke, deny or refuse to renew enrollment as a child care provider.

He-C 6917.18 Waiver of Rules.

(a) A provider wishing to request a waiver of a rule shall provide in writing or electronically the following information:

- (1) The provider name, address, phone number, and ~~Bridges~~the bridges database resource identification (~~ID~~) number assigned by the department for electronic payments;
- (2) The rule numbers for which the waiver is being requested;
- (3) A brief explanation of the reason for the waiver, the length of time for which the waiver is requested, and any effect the granting of the waiver will have on the health and safety of the children in ~~the program~~child care;
- (4) The number and age range of children who will be affected by the waiver;
- (5) The signature of the enrolled child care provider;
- (6) Signatures of parents or copy of a notice which has been shown to, or mailed to each parent, explaining the specifics of the waiver request and informing parents that they may call the department if they have concerns about the requested waiver, and
- (7) The plan for future compliance after the waiver period is over.

(b) A waiver shall be granted to the applicant or enrolled provider if the department determines that the alternative proposed by the applicant or enrolled provider:

- (1) Meets the objective or intent of the rule;
- (2) Does not negatively impact the health, safety, or well-being of the children; and
- (3) Does not negatively impact the operation of the ~~program~~provider.

(c) When a waiver is approved, the ~~program's~~provider's subsequent compliance with the alternatives approved in the waiver shall be considered equivalent to complying with the rule from which the waiver was sought.

(d) The department shall not approve any request for a waiver of any of the provisions relevant to state or federal law or of any rules of other state agencies which are referred to in this chapter.

(e) A waiver request shall be denied when any of the following occurs:

- (1) The rule for which a waiver is being requested is related to fire safety or environmental health or safety;
- (2) The provider has been found in violation of one or more of these rules and has not corrected the violations;
- (3) The department finds that approval of the requested waiver will jeopardize the health or safety of children;

(4) The department finds that approval of the requested waiver will impair the provider's ability to adequately care for children;

(5) The department finds that approval of the requested waiver will impair the operations of the child care ~~program~~provider; or

(6) The department determines that the provider has not submitted a written plan for compliance with the rule or an acceptable plan for satisfying the intent of the rules as an alternative to complying with the rule.

He-C ~~6917.18~~6917.19 Complaints and Investigations.

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

(1) The alleged violation~~(s)~~ 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 child who has first-hand knowledge regarding the allegation~~(s)~~;

(3) There is sufficient specific information for the department to determine that the allegation~~(s)~~, if proven to be true, would constitute a violation of any of the provisions of He-C 6917; or

(4) The complaint is received from any source and alleges a violation that occurred at any time if the complaint alleges:

a. Physical injury or abuse;

b. Verbal or emotional abuse; or

c. The danger of physical injury to one or more children.

(b) A complaint investigation shall be conducted when the department receives a complaint which meets the conditions specified in (a) above and which contains an allegation of violation of He-C 6917.

(c) When the complaint is determined to be founded, a monitoring statement shall be issued listing the violations found as a result of the investigation, and any other violations found during the visit, which shall be considered and treated as a finding of a complaint visit.

(d) When the complaint is determined to be unfounded, a notice shall be sent to the provider advising that the complaint was unfounded.

He-C ~~6917.19~~6917.20 Confidentiality.

(a) Except for law enforcement agencies or in an administrative proceeding against the applicant or enrolled provider, the department shall keep confidential any information collected during an investigation, unless it receives an order to release, destroy, or take any action relating to the information from a court of competent jurisdiction.

(b) When the department determines any child was the victim of corporal punishment, or other harsh punishment or treatment, or has been physically or mentally injured because ~~he or she~~the child was not

supervised, or any child’s health, safety, or well-being was otherwise jeopardized due to provider’s non-compliance with He-C 6917, the department shall contact the child’s parents to ensure that the provider has fully informed the parents about the corporal punishment, or other harsh punishment or treatment, or the incident which injured their child or placed their child at risk, in accordance with He-C 6917.14-(e).

(c) A provider shall maintain all records, whether in electronic or paper format, required by He-C 6917:

- (1) On the premises; and
- (2) Accessible and available for review by the department, upon request, for one year, unless otherwise specified.

(d) A provider shall keep confidential all records required by the department pertaining to the admission, progress, health, and discharge of children under their care and all facts learned about children and their families with the following exceptions:

- (1) A provider shall allow the department access to all records that are required by department rule or state statute to keep; and
- (2) A provider shall release information regarding a specific child only as directed by a parent of that child, or upon receipt of written authorization to release such information, signed by that child’s parent.

(e) Any provider shall not:

- (1) Make false or misleading statements to the department, whether verbal or written; or
- (2) Falsify any documents, other written information, or reports issued by or required by the department under He-C ~~6910~~6912, He-C ~~6912~~6914, He-C ~~6914~~6917, or He-C- ~~6918~~6920.

(f) In addition to (c) above, a provider shall discuss or share information regarding the admission, progress, behavior, health, or discharge of a child with the child’s parent(s) in a manner that protects and maintains confidentiality for both the child and the child’s parent(s).

Appendix

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