

CHAPTER He-P 800 RESIDENTIAL AND HEALTH CARE FACILITY RULES

PART He-P 802 RULES FOR HOSPITALS

He-P 802.01 Purpose. The purpose of this part is to set forth the licensing requirements for all hospitals pursuant to RSA 151:2, I(a).

Source. #2044, eff 6-3-82; ss by #3193, eff 1-28-86, EXPIRED: 1-28-92; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED 5-28-92

New. #5846, eff 6-22-94, EXPIRED: 6-22-00

New. #9580, eff 10-24-09

He-P 802.02 Scope. This part shall apply to any individual, agency, partnership, corporation, government entity, association or other legal entity operating a hospital, except:

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

Source. #2044, eff 6-3-82; amd by #2793, eff 8-2-84; ss by #3193, eff 1-28-86, EXPIRED: 1-28-92; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED 5-28-92

New. #5846, eff 6-22-94, EXPIRED: 6-22-00

New. #9580, eff 10-24-09

He-P 802.03 Definitions.

- (a) “Abuse” means any one of the following:
  - (1) “Emotional abuse” means the misuse of power, authority, or both, verbal harassment, or unreasonable confinement which results or could result in the mental anguish or emotional distress of patients;
  - (2) “Physical abuse” means the misuse of physical force which results or could result in physical injury to patients; and
  - (3) “Sexual abuse” means contact or interaction of a sexual nature involving patients without his or her informed consent.
- (b) “Accredited hospital” means a hospital accredited by the organizations deemed by the Centers for Medicare and Medicaid Services (CMS) as accrediting organizations.
- (c) “Activities of daily living (ADL)” means basic daily routine tasks such as eating, transferring, toileting, bathing, dressing and self-management of medications.
- (d) “Administrative remedy” means a corrective action imposed upon a licensee in response to non-compliance with RSA 151 and He-P 802.
- (e) “Administrator” means the person responsible for all aspects of the operation of a hospital on a day-to-day basis.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (f) “Admission” means accepted by a licensee for the provision of services to a patient.
- (g) “Advance directive” means a legal document allowing a person to give directions about future medical care or to designate another person to make medical decisions if he or she should lose the capacity to make health care decisions. The term “advance directive” shall include living wills and durable powers of attorney for health care, in accordance with RSA 137-J.
- (h) “Adverse event” means a negative consequence of care that results in unintended injury which may or may not have been preventable, and which is listed in RSA 151:37.
- (i) “Affiliated or related parties” means companies or individuals that serve as operators, landlords, management companies or advisors, real estate or consulting companies, members of limited liability companies, administrative services companies, lenders and companies providing financial guarantees, captive or affiliated insurance companies or other companies as the commissioner shall decide.
- (j) “Agent” means an adult to whom authority to make health care decisions is delegated under an activated durable power of attorney for health care executed in accordance with RSA 137-J.
- (k) “Applicant” means an individual, agency, partnership, corporation, government entity, association, or other legal entity seeking a license to operate a hospital pursuant to RSA 151:2, I(a).
- (l) “Care plan or treatment plan” means a documented guide developed by the licensee, in consultation with personnel, the patient, and/or the patient’s guardian, agent or personal representative, if any, as a result of the assessment process for the provision of care and services.
- (m) “Change of ownership” means the transfer in the controlling interest of an established hospital to any individual, agency, partnership, corporation, government entity, association or other legal entity.
- (n) “Chemical restraint” means any drug or medication when it is used as a restriction to manage an individual’s behavior or restrict the individual’s freedom of movement and is not a standard treatment or dosage for the individual’s condition, in that its overall effect reduces an individual’s ability to effectively or appropriately interact.
- (o) “Commissioner” means the commissioner of the New Hampshire department of health and human services or his or her designee.
- (p) “Contracted employees” means a temporary employee working under the direct supervision of the hospital but employed by an outside agency.
- (q) “Core services” means those services provided by the licensee that are included in the basic rate.
- (r) “Critical access hospital (CAH)” means a hospital that has been so designated by the Centers for Medicare and Medicaid Services (CMS).
- (s) “Days” means calendar days unless otherwise specified in the rule.
- (t) “Deficiency” means any action, failure to act or other set of circumstances that cause a licensee to be out of compliance with RSA 151 or He-P 802.
- (u) “Department” means the New Hampshire department of health and human services, at 129 Pleasant St, Concord, NH 03301.
- (v) “Direct care personnel” means any person providing hands on clinical care or hands on services to a patient including but not limited to medical, psychological or rehabilitative treatments, bathing, transfer

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

assistance, feeding, dressing, toileting, and grooming but does not include housekeeping, informational, delivery or other non-contact supportive services.

(w) “Directed plan of correction” means a plan developed and written by the department that specifies the actions the licensee must take to correct identified deficiencies.

(x) “Dietitian” means a person who is licensed under RSA 326-H.

(y) “Do not resuscitate order” or “DNR order” also known as “Do not attempt resuscitation order” or “DNAR order” means an order that, in the event of an actual or imminent cardiac or respiratory arrest, chest compression and ventricular defibrillation will not be performed, the patient will not be intubated or manually ventilated, and there will be no administration of resuscitation drugs.

(z) “Efficiently” means the ability to perform advertised services within a timeframe, which minimizes the delay in patient care.

(aa) “Emergency plan” means a document outlining the responsibilities of personnel in an emergency.

(ab) “Emergency psychiatric services” means the ability to admit patients, who are potentially dangerous to self or others, on a 24 hour basis for immediate treatment.

(ac) “Employee” means anyone employed by the hospital and for whom the hospital has direct supervisory authority.

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

(ae) “Facility” means “facility” as defined in RSA 151:19, II.

(af) “Freestanding hospital emergency facility (FHEF)” means a hospital geographically separate from the parent hospital, which is owned and operated by the parent hospital and which provides emergency acute care identical to those services provided by the parent hospital.

(ag) “Governing body” means a group of individuals who are responsible for policy direction of the hospital.

(ah) “Guardian” means a person appointed in accordance with RSA 463, RSA 464-A or the laws of another state, to make informed decisions relative to the patient’s health care and other personal needs.

(ai) “Hospital” means “hospital” as defined in RSA 151-C:2, XX.

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

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

(al) “Inspection” means the process followed by the department to determine a licensee’s compliance with RSA 151 and He-P 802 or to respond to allegations of non-compliance with RSA 151 and He-P 802.

## NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(am) “License” means the document issued to an applicant which authorizes operation of a hospital in accordance with RSA 151 and He-P 802, and includes the name of the licensee, the name of the business, the physical address, the license category, the effective date and license number.

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

(ao) “Licensed practitioner” means anyone licensed by the appropriate New Hampshire licensing board.

(ap) “Licensed premises” means the building, or portion thereof, that comprises the physical location the department has approved for the licensee to conduct operations in accordance with its license.

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

(ar) “Locked unit” means a locked, secured or alarmed hospital or units within a hospital, or anklets, bracelets or similar devices that cause a door to close automatically and lock when approached, thereby preventing a patient from freely exiting the hospital or unit within.

(as) “Managers” means department heads or other management personnel responsible to the administrator for the day-to-day operation of the service.

(at) “Medical staff” means those physicians and other licensed practitioners permitted by law and hospital policies to provide patient care services independently within the scope of their practice acts.

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

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

(aw) “Nursing care” means assisting patients to attain or maintain optimal health by implementing a strategy of care to accomplish defined goals and by evaluating responses to nursing care and medical treatment, and includes basic health care that helps both clients and patients cope with difficulties in daily living associated with their actual or potential health or illness status.

(ax) “Orders” means prescriptions, instructions for administering or discontinuing treatments, special diets or therapies given by a licensed practitioner, or other health professional according to their legally authorized scope of practice.

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

(az) “Parent hospital” means the hospital which owns and operates a freestanding hospital emergency facility.

(ba) “Patient” means any person admitted to or in any way receiving care, services or both from a hospital licensed in accordance with RSA 151 and He-P 802.

(bb) “Patient record” means documents maintained for each person receiving care and services, which includes all documentation required by RSA 151, He-P 802 and all documentation compiled relative to the patient as required by other federal and state requirements.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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

(bd) “Personal representative” means a person designated in accordance with RSA 151:19 to assist the patient for a specific, limited purpose or for the general purpose of assisting a patient in the exercise of any rights.

(be) “Personnel” means individual(s), either paid or volunteer, including independent contractors, who provide direct or indirect care or services to a patient.

(bf) “Physical restraint” means any manual method, physical or mechanical device, material or equipment that immobilizes an individual or reduces the ability of an individual to move his or her arms, legs, head, or other body parts freely. The term “physical restraint” does not include devices, such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or other methods that involve the physical holding of an individual, if necessary, for the purpose of conducting routine physical examinations or tests, protecting the individual from falling out of bed, or permitting the individual to participate in activities without the risk of physical harm.

(bg) “Physician” means medical doctor currently licensed in the state of New Hampshire pursuant to RSA 329.

(bh) “Plan of correction (POC)” means a plan developed and written by the licensee, which specifies the actions that will be taken to correct identified deficiencies.

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

(bj) “Professional staff” means staff who are licensed, registered or certified by the state to provide health care services.

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

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

(bl) “Psychiatric hospital” means a hospital or unit within a hospital which provides psychiatric services.

(bm) “Radiographic images” means x-rays or other images which are either on film, paper or stored electronically.

(bn) “Rehabilitation hospital” means a:

- (1) Hospital that has been certified by CMS as an Inpatient Rehabilitation Hospital, and holds or meets conditions of an active certificate of need for Comprehensive Physical Rehabilitation Beds and Services;
- (2) Hospital designated by CMS to provide comprehensive physical rehabilitation services in a distinct part unit and holds/meets conditions of an active certificate of need for Comprehensive Physical Rehabilitation Beds and Services; or
- (3) Hospital licensed as of December 31, 1995 as a specialty rehabilitation hospital pursuant to RSA 151 which provides services devoted primarily to acute rehabilitation treatment.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(bo) "Service" means a specific activity performed by the licensee, either directly or indirectly, to benefit or assist a patient, such as dietary, laboratory, nursing or surgery.

(bp) "Staff" means those employees of the hospital who are not subject to the credentialing process.

(bq) "Swing beds" means beds within a hospital or critical access hospital participating in Medicare that are approved by the Centers for Medicare and Medicaid Services at a skilled level of care.

Source. #2044, eff 6-3-82; ss by #3193, eff 1-28-86, EXPIRED: 1-28-92; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED 5-28-92

New. #5846, eff 6-22-94, EXPIRED: 6-22-00

New. #9580, eff 10-24-09

He-P 802.04 Initial License Application Requirements.

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

(1) A completed application form entitled "Application for Residential or Health Care License," signed by the applicant or 2 of the corporate officers affirming the following:

"I affirm that I am familiar with the requirements of RSA 151 and the rules adopted thereunder and that the premises are in full compliance. I understand that providing false information shall be grounds for denial, suspension, or revocation of the license, and the imposition of a fine.";

(2) A floor plan of the prospective hospital;

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

- a. "Certificate of Authority," if a corporation;
- b. "Certificate of Formation," if a limited liability corporation; or
- c. "Certificate of Trade Name," if a sole proprietorship or if otherwise applicable;

(4) List of affiliated or related parties;

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

(6) A resume identifying the name and qualifications of the hospital administrator;

(7) Copies of applicable licenses and/or certificates for the hospital administrator;

(8) Written local approvals as follows:

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

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

1. The health officer verifying that the applicant complies with all applicable local health requirements and drinking water and wastewater requirements;
2. The building official verifying that the applicant complies with all applicable state building codes and local building ordinances;
3. The zoning officer verifying that the applicant complies with all applicable local zoning ordinances; and
4. The fire chief verifying that the applicant complies with the state fire code, Saf-C 6000, including the health care chapter of the National Fire Protection Association (NFPA) 101 as adopted by the commissioner of the department of safety, and local fire ordinances applicable for a health care hospital; and

b. For a building under construction, the written approvals required by a. above shall be submitted at the time of the application based on the local official's review of the building plans and again upon completion of the construction project;

(9) If the hospital uses a private water supply, documentation that the water supply has been tested in accordance with RSA 485 and Env-Ws 313.01 and Env-Ws 314.01, or if public water supply, a copy of a water bill;

(10) A written disclosure from the applicant, if a person, and the proposed licensee and administrator, containing a list of any:

- a. Convictions in this or any other state;
- b. Adjudications of juvenile delinquency;
- c. Permanent restraining or protective orders against the applicant, licensee or administrator;
- d. Finding by the department or any administrative agency in this or any other state for assault, fraud, abuse, neglect or exploitation; and
- e. An explanation of the circumstances surrounding the disclosed matters described in a. through d. above; and

(11) The results of a criminal records check from the NH department of safety for the applicant, including the licensee, and administrator, as applicable.

(b) Information disclosed regarding adjudication of juvenile delinquency, as required by (a)(10)b. above, shall be confidential and shall not be released except in a proceeding involving the question of licensure or revocation of a license, or pursuant to court order.

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

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

Source. #2044, eff 6-3-82; ss by #3193, eff 1-28-86, EXPIRED: 1-28-92; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED 5-28-92

New. #5846, eff 6-22-94, EXPIRED: 6-22-00

New. #9580, eff 10-24-09

He-P 802.05 Processing of Applications and Issuance of Licenses.

(a) An application for an initial license shall be complete when the department determines that all items required by He-P 802.04(a) have been received.

(b) If an application does not contain all of the items required by He-P 802.04(a), the department shall notify the applicant in writing of the items required before the application can be processed.

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

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

(e) Following an inspection, a license shall be issued if the department determines that an applicant requesting an initial license is in full compliance with RSA 151 and He-P 802.

(f) The department shall deny a licensing request after reviewing the information in He-P 802.04(a)(10) and (11) above if it determines that the applicant, proposed licensee or administrator:

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

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

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

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

Source. #2044, eff 6-3-82; ss by #3193, eff 1-28-86, EXPIRED: 1-28-92; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED 5-28-92

New. #5846, eff 6-22-94, EXPIRED: 6-22-00

New. #9580, eff 10-24-09

He-P 802.06 License Expirations and Procedures for Renewals.

(a) A license shall be valid on the date of issuance and expire the following year on the last day of the month it was issued unless a completed application for renewal has been received.

(b) Each licensee shall complete and submit to the department an application form pursuant to He-P 802.04(a)(1) at least 120 days prior to the expiration of the current license.

(c) The licensee shall submit with the renewal application:

(1) The materials required by He-P 802.04(a)(1), (5), and (10);

(2) The current license number;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(3) A request for renewal of any existing waivers previously granted by the department, in accordance with He-P 802.10(f), if applicable; and

(4) A statement identifying any variances applied for or granted by the state fire marshal.

(d) In addition to (c) above, if a private water supply is used, the licensee shall provide documentation that every 3 years the water supply has been tested for bacteria and nitrates and determined to be at acceptable levels, in accordance with Env-Ws 313.01 for bacteria and Env-Ws 314.01 for nitrates.

(e) Following an inspection as described in He-P 802.09, a license shall be renewed if the department determines that the licensee:

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

(2) Has submitted a POC that has been accepted by the department and implemented by the licensee if deficiencies were cited at the last licensing inspection or investigation; and

(3) Is found to be in compliance with RSA 151 and He-P 802 at the renewal inspection.

(f) Prior to issuing a renewal license the department shall review any of the information submitted in accordance with He-P 802.04(a)(10) above and shall deny a license renewal in accordance with He-P 802.05(f).

Source. #2044, eff 6-3-82; ss by #3193, eff 1-28-86, EXPIRED: 1-28-92; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED 5-28-92

New. #5846, eff 6-22-94, EXPIRED: 6-22-00

New. #9580, eff 10-24-09

He-P 802.07 Hospital Construction, Modifications or Renovations.

(a) Sixty days prior to initiating construction, the hospital shall provide to the department notice and written plans drawn to scale for construction, renovation or structural alterations for the following:

(1) A new building;

(2) Structural alterations to any patient area;

(3) Alterations that require approval from local or state authorities; and

(4) Alterations that might affect compliance with the health and safety, fire or building codes, including but not limited to, fire suppression, detection systems and means of egress.

(b) The department shall review plans for construction, renovation or structural alterations of a hospital for compliance with all applicable sections of RSA 151 and He-P 802 and notify the applicant or licensee as to whether the proposed changes comply with these requirements.

(c) Department approval shall not be required prior to initiating construction, renovations or structural alterations, however an applicant or licensee who proceeds prior to receiving approval shall do so at their own risk.

(d) The hospital shall comply with all applicable licensing rules when doing construction, modifications or alterations.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(e) A licensee or applicant constructing, renovating, or modifying a building shall comply with the following:

- (1) The state fire code, Saf-C 6000, including, but not limited to, NFPA 1 and NFPA 101 as adopted by the commissioner of the department of safety under RSA 153; and
- (2) The state building code as defined in RSA 155-A:1, IV, as amended by the Building Code Review Board pursuant to RSA 155-A:10, V.

(f) All hospitals newly constructed or renovated after the effective date of He-P 802 shall comply with the American Institute of Architects "Guidelines for Design and Construction of Health Care Facilities," General Hospital chapter, 2006 edition.

(g) Existing hospitals shall be deemed compliant with (f) above, unless and until renovations or changes are implemented in the facility.

(h) The completed building shall be subject to an inspection pursuant to He-P 802.09 prior to its use.

Source. #2044, eff 6-3-82; ss by #3193, eff 1-28-86, EXPIRED: 1-28-92; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED 5-28-92

New. #5846, eff 6-22-94, EXPIRED: 6-22-00

New. #9580, eff 10-24-09

He-P 802.08 Hospital Requirements for Organizational Changes.

(a) The hospital shall provide the department with written notice at least 30 days prior to changes in any of the following:

- (1) Ownership;
- (2) Physical location;
- (3) Address;
- (4) Name;
- (5) Capacity; or
- (6) Affiliated parties or related parties.

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

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

- (1) A change in ownership;
- (2) A change in the physical location; or
- (3) An increase in the number of patients beyond what was authorized under the initial license.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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

(e) The hospital shall inform the department in writing as soon as possible prior to a change in administrator and provide the department with the following:

- (1) The information specified in He-P 802.04(a)(10) and (11);
- (2) A resume identifying the name and qualifications of the new administrator; and
- (3) Copies of applicable licenses for the new administrator.

(f) Upon review of the materials submitted in accordance with (e) above, the department shall make a determination as to whether the new administrator:

- (1) Does not have a history of any of the criteria identified in He-P 802.05(f); and
- (2) Meets the qualifications for the position as specified in He-P 802.16(b).

(g) If the department determines that the new administrator does not meet the qualifications as specified in He-P 802.16(b), it shall so notify the hospital in writing so that a waiver can be sought or the program can search for a qualified candidate.

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

(i) The department shall review the information submitted under (h) above and determine if the added services can be provided under the hospital's current license.

(j) An inspection by the department shall be conducted prior to operation when there are changes in the following:

- (1) Ownership, unless the current licensee has no outstanding administrative actions in process and there will be no changes made by the new owner in the scope of services provided;
- (2) The physical location; or
- (3) An increase in the number of patients beyond what was authorized under the initial license.

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

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

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

- (1) A change of administrator;
- (2) An increase in the number of patients beyond what was authorized under the initial license;  
or
- (3) When a waiver has been granted.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(n) Licenses issued under (j)(1) above shall expire on the date the license issued to the previous owner would have expired.

(o) The licensee shall return the previous license to the division within 10 days of the hospital changing its ownership, physical location, address or name.

Source. #2044, eff 6-3-82; ss by #3193, eff 1-28-86, EXPIRED: 1-28-92; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED 5-28-92

New. #5846, eff 6-22-94, EXPIRED: 6-22-00

New. #9580, eff 10-24-09

He-P 802.09 Inspections.

(a) For the purpose of determining compliance with RSA 151 and He-P 802, as authorized by RSA 151:6 and RSA 151:6-a, the licensee shall admit and allow any department representative at any time to inspect the following:

- (1) The licensed premises;
- (2) All programs and services provided by the hospital; and
- (3) Any records required by RSA 151 and He-P 802.

(b) The department shall conduct an inspection to determine full compliance with RSA 151 and He-P 802, to include a clinical and a life safety inspection, prior to:

- (1) The issuance of an initial license;
- (2) A change in ownership, except as allowed by He-P 802.08(j)(1);
- (3) A change in the licensee's physical location;
- (4) An increase in the number of patients beyond what was authorized under the initial license;
- (5) Occupation of space after construction, renovations or structural alterations; or
- (6) The renewal of a license.

(c) In addition to (b) above, the department shall conduct an inspection as necessary to verify the implementation of any POC accepted or issued by the department as part of an annual inspection, or as a follow-up inspection focused on verifying the implementation of a POC.

Source. #2044, eff 6-3-82; ss by #3193, eff 1-28-86, EXPIRED: 1-28-92; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED 5-28-92

New. #5846, eff 6-22-94, EXPIRED: 6-22-00

New. #9580, eff 10-24-09

He-P 802.10 Waivers.

(a) Applicants or licensees seeking waivers of specific rules in He-P 802 shall submit a written request for a waiver to the commissioner that includes:

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (1) The specific reference to the rule for which a waiver is being sought;
  - (2) A full explanation of why a waiver is necessary;
  - (3) A full explanation of alternatives proposed by the applicant or license holder, which shall be equally as protective of public health and patients as the rule from which a waiver is sought; and
  - (4) The period of time for which the waiver is sought.
- (b) Waivers shall not exceed 12 months, or the current license expiration date, except as allowed by He-P 802.17(e).
- (c) A request for waiver shall be granted if the commissioner determines that the alternative proposed by the applicant or licensee:
- (1) Meets the objective or intent of the rule;
  - (2) Does not have the potential to negatively impact the health or safety of the patients; and
  - (3) Does not negatively affect the quality of patient services.
- (d) The licensee's subsequent compliance with the alternatives approved in the waiver shall be considered equivalent to complying with the rule from which waiver was sought.
- (e) Waivers shall not be transferable.
- (f) When a licensee wishes to renew the waiver beyond the approved period of time, the licensee shall apply for a new waiver by submitting the information required by (a) above:
- (1) When the licensee submits its application for license renewal pursuant to He-P 802.06(c); or
  - (2) At least 15 days prior to the expiration of the waiver if the waiver expires on a date other than the expiration date of the licensing certificate.
- (g) The request to renew a waiver shall be subject to (b) through (f) above.

Source. #2044, eff 6-3-82; ss by #3193, eff 1-28-86, EXPIRED: 1-28-92; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED 5-28-92

New. #5846, eff 6-22-94, EXPIRED: 6-22-00

New. #9580, eff 10-24-09

He-P 802.11 Complaints.

- (a) The department shall investigate complaints that allege:
- (1) A violation of RSA 151 or He-P 802;
  - (2) That an individual or entity is operating as a hospital without being licensed; or
  - (3) That an individual or entity is advertising or otherwise representing the hospital as having or performing services for which they are not licensed to provide, pursuant to RSA 151:2, III.
- (b) When practicable the complaint shall be in writing and contain the following information:

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (1) The name and address of the hospital, or the alleged unlicensed individual or entity;
  - (2) The name, address and telephone number of the complainant; and
  - (3) A description of the situation that supports the complaint and the alleged violation(s) of RSA 151 or He-P 802.
- (c) For the hospital, the department shall:
- (1) Provide written notification of the results of the investigation to the licensee along with an inspection report if deficiencies were found as a result of the investigation; and
  - (2) Notify any other federal, state or local agencies of alleged violations of their statutes or rules based on the results of the investigation, as appropriate.
- (d) If the department determines that the complaint is unfounded or that the alleged act does not violate any statutes or rules, the department shall so notify the unlicensed individual or licensee and take no further action.
- (e) If the investigation results in deficiencies being cited, the licensee shall be required to submit a POC in accordance with He-P 802.12(c).
- (f) For the unlicensed individual or entity the department shall provide written notification to the owner or person responsible that includes:
- (1) The date of inspection;
  - (2) The reasons for the inspection; and
  - (3) Whether or not the inspection resulted in a determination that the services being provided require licensing under RSA 151:2, I(f).
- (g) The owner or person responsible shall be allowed 7 days from the date of receipt of the notice required by (f) above to respond to a finding that they are operating without a license or submit a completed application for a license in accordance with RSA 151:7-a, II.
- (h) If the owner of an unlicensed hospital does not comply with (g) above, or if the department does not agree with the owner's response, the department shall:
- (1) Issue a written warning to immediately comply with RSA 151 and He-P 802; and
  - (2) Provide notice stating that the individual has the right to appeal the warning in accordance with RSA 151:7-a, III.
- (i) Any person or entity who fails to comply after receiving a warning, as described in (h) above, shall be subject to an action by the department for injunctive relief under RSA 151:17.
- (j) The fact that the department takes action for injunctive relief under RSA 151:17 shall not preclude the department from taking other action under RSA 151, He-P 802 or other applicable laws.
- (k) Complaint investigation files shall be confidential in accordance with RSA 151:13, and shall not be disclosed publicly but shall be released by the department on written request only:
- (1) To the department of justice when relevant to a specific investigation;
  - (2) To law enforcement when relevant to a specific criminal investigation;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (3) When a court of competent jurisdiction orders the department to release such information; or
- (4) In connection with any adjudicative proceedings relative to the licensee.

Source. #2044, eff 6-3-82; ss by #3193, eff 1-28-86, EXPIRED: 1-28-92; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED 5-28-92

New. #5846, eff 6-22-94, EXPIRED: 6-22-00

New. #9580, eff 10-24-09

He-P 802.12 Administrative Remedies.

(a) The department shall impose administrative remedies for violations of RSA 151, He-P 802 or other applicable licensing rules, including:

- (1) Requiring a licensee to submit a POC;
- (2) Imposing a directed POC upon a licensee;
- (3) Imposing fines upon an unlicensed individual, applicant or licensee;
- (4) Suspension of a license; or
- (5) Revocation of a license.

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

- (1) Identifies each deficiency;
- (2) Identifies the specific remedy(s) that has been proposed; and
- (3) Provides the licensee with the following information:
  - a. The right to a hearing in accordance with RSA 541-A and He-C 200 prior to the fine becoming final; and
  - b. The automatic reduction of a fine by 25% if the licensee waives the right to a hearing, the fine is paid within 10 days of the date on the written notice from the department and the deficiency has been corrected, or a POC has been accepted and approved by the department.

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

- (1) Upon receipt of a notice of deficiencies, the licensee shall submit a POC detailing:
  - a. How the licensee intends to correct each deficiency;
  - b. What measures will be put in place, or what system changes will be made to ensure that the deficiency does not recur; and
  - c. The date by which each deficiency shall be corrected;
- (2) The licensee shall submit a POC to the department within 21 days of the date on the letter that transmitted the inspection report;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (3) The department shall review and accept each POC that:
  - a. Achieves compliance with RSA 151 and He-P 802;
  - b. Addresses all deficiencies and deficient practices as cited in the inspection report;
  - c. Prevents a new violation of RSA 151 or He-P 802 as a result of the implementation of the POC; and
  - d. Specifies the date upon which the deficiencies will be corrected;
- (4) If the POC is acceptable, the department shall issue a license certificate or provide written notification of acceptance of the POC, whichever is applicable;
- (5) If the POC is not acceptable, the department shall notify the licensee in writing of the reason for rejecting the POC;
- (6) The licensee shall develop and submit a revised POC within 14 days of the date of the written notification from the department that states the original POC was rejected unless, within the 14 day period, the licensee requests an extension, either via telephone or in writing, and the department grants the extension, based on the following criteria:
  - a. The licensee demonstrates that he or she has made a good faith effort to develop and submit the POC within the 14 day period but has been unable to do so; and
  - b. The department determines that the health, safety or well-being of a patient will not be jeopardized as a result of granting the waiver;
- (7) The revised POC shall comply with (1) above and be reviewed in accordance with (3) above;
- (8) If the revised POC is not acceptable to the department, or is not submitted within 14 days of the date of the written notification from the department that states the original POC was rejected, the licensee shall be subject to a directed POC in accordance with (d) below and a fine in accordance with (f)(11) below;
- (9) The department shall verify the implementation of any POC that has been submitted and accepted by:
  - a. Reviewing materials submitted by the licensee;
  - b. Conducting a follow-up inspection; or
  - c. Reviewing compliance during the next annual inspection;
- (10) Verification of the implementation of any POC shall only occur after the date of completion specified by the licensee in the plan; and
- (11) If the POC or revised POC has not been implemented by the completion date at the time of the next inspection the licensee shall be:
  - a. Notified by the department in accordance with (b) above; and
  - b. Issued a directed POC in accordance with (d) below and shall be subject to a fine in accordance with (f)(12) below.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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

- (1) As a result of an inspection, deficiencies were identified that require immediate corrective action to protect the health and safety of the patients and personnel;
- (2) A revised POC is not submitted within 14 days of the written notification from the department; or
- (3) A revised POC submitted by the licensee or administrator has not been accepted.

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

- (1) Issue a warning that enforcement action will be taken if the POC is not implemented;
- (2) Impose a fine;
- (3) Deny the application for a renewal of a license; or
- (4) Revoke or suspend the license in accordance with He-P 802.13.

(f) The department shall impose fines as follows:

- (1) For a failure to cease providing unlicensed services after being notified by the department of the need for a license, in violation of RSA 151:2 the fine shall be \$2000.00 for an applicant or unlicensed provider;
- (2) For a failure to cease operations after a denial of a license or after receipt of an order to cease and desist immediately, in violation of RSA 151:2 and RSA 541-A:30, the fine for an applicant, unlicensed provider or a licensee shall be \$2000.00;
- (3) For advertising services or otherwise representing themselves as having a license to provide services that they are not licensed to provide, in violation of RSA 151:2, III, the fine for an applicant, licensee or unlicensed provider shall be \$500.00;
- (4) For a failure to transfer a patient whose needs exceeds the services or programs provided by the hospital in violation of RSA 151:5-a, the fine shall be \$500.00;
- (5) For admission of a patient whose needs exceed the services or programs authorized by the hospital licensing classification, in violation of RSA 151:5-a, II, and He-P 802.18(a) and (b), the fine for a licensee shall be \$1000.00.
- (6) For a failure to comply with the directives of a warning issued by the department in violation of RSA 151:7-a and He-P 802.11(h), the fine shall be \$500.00;
- (7) For a failure to submit a renewal application for a license prior to the expiration date, in violation of He-P 802.06(b), the fine shall be \$100.00;
- (8) For a failure to notify the department prior to a change of ownership, in violation of He-P 802.08(a)(1), the fine shall be \$500.00;
- (9) For a failure to notify the department prior to a change in the physical location, in violation of He-P 802.08(a)(2), the fine shall be \$500.00;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (10) For a refusal to allow access by the department to the hospital's premises, programs, services or records, in violation of He-P 802.09(a), the fine for an applicant, individual or licensee shall be \$2000.00;
- (11) For a failure to submit a POC or revised POC, within 21 or 14 days, respectively, of the date on the letter that transmits the inspection report, in violation of He-P 802.12(c)(2) or (6), the fine for a licensee shall be \$100.00 unless an extension has been granted by the department;
- (12) For a failure to implement any POC that has been accepted or issued by the department, in violation of He-P 802.12(c)(11), the fine for a licensee shall be \$1000.00;
- (13) For a failure to establish, implement or comply with licensee policies, as required by He-P 802.14(d), the fine for a licensee shall be \$500.00;
- (14) For a failure to provide services or programs required by the licensing classification and specified by He-P 802.14(c), the fine for a licensee shall be \$500.00;
- (15) For exceeding the maximum number of patients, in violation of He-P 802.14(k), the fine for a licensee shall be \$500.00;
- (16) For falsification of information contained on an application or of any records required to be maintained for licensing, in violation of He-P 802.14(f), the fine shall be \$500.00 per offense;
- (17) For a failure to meet the needs of the patient, in violation of He-P 802.14(i)(1), the fine for a licensee shall be \$500.00;
- (18) For employing an administrator or other personnel who do not meet the qualifications for the position, in violation of He-P 802.16(b), the fine for a licensee shall be \$500.00;
- (19) For failure to report an adverse event as required by He-P 802.15(a), the fine for a licensee shall be \$2000.00 per occurrence;
- (20) For failure to report infections and process measures as identified and required by He-P 802.21(m), the fine for a licensee shall be \$1000.00 per occurrence;
- (21) When an inspection determines that a violation of RSA 151 or He-P 802 has the potential to jeopardize the health, safety or well-being of a patient, in addition to any other enforcement actions taken by the department, the fines assessed shall be as follows:
- a. If the same deficiency is cited within 2 years of the original deficiency, the fine for a licensee shall be double the initial fine, but not to exceed \$2000.00; and
  - b. If the same deficiency is cited a third time within 2 years of being fined in a. above, the fine for a licensee shall be triple the fine, but not to exceed \$2000.00;
- (22) Each day that the individual or licensee continues to be in violation of the provisions of RSA 151 or He-P 802 shall constitute a separate violation and shall be fined in accordance with He-P 802.12(f); and
- (23) If the applicant or licensee is making good faith efforts to comply with (4), (5) or (18) above, the department shall not issue a daily fine.
- (g) Payment of any imposed fine to the department shall meet the following requirements:

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(1) Payment shall be made in the form of check or money order made payable to the “Treasurer, State of New Hampshire” or cash in the exact amount due; and

(2) Cash, money order, or certified check shall be required when an applicant or licensee has issued payment to the department by check, and such check was returned for insufficient funds.

Source. #2044, eff 6-3-82; ss by #3193, eff 1-28-86, EXPIRED: 1-28-92; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED 5-28-92

New. #5846, eff 6-22-94, EXPIRED: 6-22-00

New. #9580, eff 10-24-09

He-P 802.13 Enforcement Actions and Hearings.

(a) At the time of imposing a fine, or denying, revoking or suspending a license, the department shall send to the applicant or licensee a written notice that sets forth:

- (1) The reasons for the proposed action;
- (2) The action to be taken by the department; and
- (3) The right of an applicant or licensee to a hearing in accordance with RSA 151:8 or RSA 541-A:30, III, as applicable before the enforcement action becomes final.

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

- (1) An applicant or a licensee has violated provisions of RSA 151 or He-P 802, which violations have the potential to harm a patient’s health, safety or well-being;
- (2) An applicant or a licensee has failed to pay a fine imposed under administrative remedies;
- (3) An applicant or a licensee has had a check returned to the department for insufficient funds and has not re-submitted the outstanding fee in the form of cash, money order or certified check;
- (4) After being notified of and given an opportunity to supply missing information, an applicant or licensee fails to submit an application that meets the requirements of He-P 802.04;
- (5) An applicant, licensee or any representative or employee of the applicant or licensee:
  - a. Provides false or misleading information to the department;
  - b. Prevents or interferes, or fails to cooperate with any inspection or investigation conducted by the department; or
  - c. Fails to provide requested files or documents to the department;
- (6) The licensee failed to implement or continue to implement a POC that has been accepted or imposed by the department in accordance with He-P 802.12(d) and (e);
- (7) The licensee is cited a third time under RSA 151 or He-P 802 for the same violations within the last 5 inspections;
- (8) A licensee, including corporation officers or board members, has had a license revoked and submits an application during the 5-year prohibition period specified in (h) below;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(9) Upon inspection, the applicant's premise is not in compliance with RSA 151 or He-P 802;

(10) The department makes a determination that one or more of the factors in He-P 802.05(f) is true; or

(11) The applicant or licensee fails to employ a qualified administrator or received a waiver allowing the employment of an administrator who does not meet all of the qualifications listed in He-P 802.16(b).

(c) An applicant or licensee shall have 30 days after receipt of the notice of enforcement action to request a hearing to contest the action.

(d) If a written request for a hearing is not made pursuant to (c) above, the action of the department shall become final.

(e) The department shall order the immediate suspension of a license, the cessation of operations, and the transfer of care of patients when it finds that the health, safety or welfare of patients is in jeopardy and requires emergency action in accordance with RSA 541-A:30, III.

(f) If an immediate suspension is upheld, the licensee shall not resume operating until the department determines through inspection that compliance with RSA 151 and He-P 802 is achieved.

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

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

(i) The 5 year period referenced in (h) above shall begin on:

(1) The date of the department's decision to revoke or deny the license, if no request for an administrative hearing is requested; or

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

(j) Notwithstanding (i) above, the department shall consider an application submitted after the decision to revoke or deny becomes final, if the applicant demonstrates that circumstances have changed to the extent that the department now has good cause to believe that the applicant has the requisite degree of knowledge, skills and resources necessary to maintain compliance with the provisions of RSA 151 and He-P 802.

(k) RSA 541 shall govern further appeals of department decisions under this section.

(l) No ongoing enforcement action shall preclude the imposition of any remedy available to the department under RSA 151, RSA 541-A:30, III, or He-P 802.

(m) The department shall offer an opportunity for informal dispute resolution to any applicant or licensee who disagrees with a deficiency cited by the department on a statement of findings, provided that the applicant or licensee submits a written request for an informal dispute resolution.

(n) The informal dispute resolution shall be requested in writing by the applicant, licensee or program director no later than 14 days from the date the statement of findings was issued by the department.

(o) The department shall review the evidence presented and provide a written notice to the applicant or licensee of its decision.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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

Source. #2044, eff 6-3-82; ss by #3193, eff 1-28-86, EXPIRED: 1-28-92; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED 5-28-92

New. #5846, eff 6-22-94, EXPIRED: 6-22-00

New. #9580, eff 10-24-09

He-P 802.14 Duties and Responsibilities of All Licensees.

- (a) The licensee shall comply with the patients' bill of rights as set forth in RSA 151:19-21.
- (b) The licensee shall define, in writing, the scope and type of services to be provided by the hospital, which shall include, at a minimum, the required services listed in He-P 802.18.
- (c) The licensee shall develop and implement written policies and procedures governing the operation and all services provided by the hospital.
- (d) All policies and procedures shall be reviewed per licensee policy.
- (e) The licensee shall assess and monitor the quality of care and service provided to patients on an ongoing basis.
- (f) The licensee or any employee shall not falsify any documentation or provide false or misleading information to the department.
- (g) The licensee shall not:
  - (1) Advertise or otherwise represent itself as operating a hospital, unless it is licensed; and
  - (2) Advertise that it provides services that it is not authorized to provide.
- (h) The licensee shall comply with all conditions of warnings and administrative remedies issued by the department, and all court orders.
- (i) Licensees shall:
  - (1) Meet the needs of the patients during those hours that the patients are in the care of the hospital;
  - (2) Initiate action to maintain the hospital in full compliance at all times with all relevant health and safety requirements contained in applicable federal, state and local laws, rules, regulations, and ordinances;
  - (3) Establish, in writing, a chain of command that sets forth the line of authority for the operation of the hospital;
  - (4) Appoint an administrator;
  - (5) Verify the qualifications of all personnel;
  - (6) Provide sufficient numbers of personnel who are present in the hospital and are qualified to meet the needs of patients during all hours of operation;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(7) Provide the hospital with sufficient supplies, equipment and lighting to meet the needs of the patients; and

(8) Implement any POC that has been accepted by the department.

(j) The licensee shall consider all patients to be competent and capable of making health care decisions unless the patient:

(1) Has a guardian appointed by a court of competent jurisdiction;

(2) Has a durable power of attorney for health care that has been activated; or

(3) Is an un-emancipated minor.

(k) The licensee shall not exceed the number of occupants authorized by NFPA 101 as adopted by the commissioner of the department of safety under Saf-C 6000 and identified on the licensing certificate.

(l) If the licensee accepts a patient who is known to have a disease reportable under He-P 301 or an infectious disease, which is any disease caused by the growth of microorganisms in the body which might or might not be contagious, the licensee shall follow the required procedures for the care of the patients, as specified by the United States Centers for Disease Control and Prevention 2007 Guideline for Isolation Precautions, Preventing Transmission of Infectious Agents in Healthcare Settings, June 2007.

(m) The licensee shall report all positive tuberculosis test results for personnel to the office of disease control in accordance with RSA 141-C:7, He-P 301.02 and He-P 301.03.

(n) The licensee shall implement measures to ensure the safety of patients who are assessed as an elopement risk or danger to self or others.

(o) In addition to the posting requirements specified in RSA 151:29, the licensee shall post the following documents in a public area:

(1) The current license certificate issued in accordance with RSA 151:2;

(2) All inspection reports issued in accordance with He-P 802.09(b), for the previous 12 months;

(3) A copy of the patients' bill of rights;

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

(5) A copy of the licensee's complaint procedure, including the address and phone number of the department to which complaints may also be made, which shall also be posted on the hospital website if available; and

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

(p) The licensee shall admit and allow any department representative to inspect the hospital and all programs and services that are being provided at any time for the purpose of determining compliance with RSA 151 and He-P 802 as authorized by RSA 151:6 and RSA 151:6-a.

(q) Licensees shall, in accordance with He-P 802.15:

(1) Report all adverse events to the department as required by He-P 802.15(a)-(c);

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (2) Submit additional information if required by the department; and
- (3) Report the event to other agencies as required by law.

(r) The licensee shall immediately notify the local police department, the guardian and agent or personal representative if any, when a patient, who has been assessed or is known as being a danger to self or others, has an unexplained absence after the licensee has searched the building and the grounds of the hospital.

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

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

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

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

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

(w) The licensee shall provide cleaning and maintenance services, as needed to protect patients, personnel, and the public.

(x) The building housing the hospital shall comply with all state and local:

- (1) Health requirements;
- (2) Building ordinances;
- (3) Fire ordinances; and
- (4) Zoning ordinances.

(y) Smoking shall be prohibited in the hospital as required by RSA 155:66, I(b).

(z) If the licensee holds or manages a patient's funds or possessions, it shall first receive written authorization in accordance with RSA 151:24 and RSA 151:21, VII, and such funds shall not be used for the benefit of the licensee, other patients or other household members.

(aa) At the time of admission the licensee shall give a patient and the patient's guardian, agent, or personal representative, a listing of all known applicable charges and identify what care and services are included in the charge.

Source. #2144, eff 9-28-82; ss by #3193, eff 1-28-86, EXPIRED: 1-28-92; ss by #5317, EMERGENCY, eff 1-29-92, EXPIRED 5-28-92

New. #5846, eff 6-22-94, EXPIRED: 6-22-00

New. #9580, eff 10-24-09

He-P 802.15 Adverse Event Reporting.

(a) Pursuant to RSA 151:37, the hospital administrator or designee shall report to the department the following adverse events:

“(a) Surgical events including:

(1) Surgery performed on a wrong body part that is not consistent with the documented informed consent for that patient. Reportable events under this subparagraph do not include situations requiring prompt action that occur in the course of surgery or situations where urgency precludes obtaining informed consent.

(2) Surgery performed on the wrong patient.

(3) The wrong surgical procedure performed on a patient that is not consistent with the documented informed consent for that patient. Reportable events under this subparagraph do not include situations requiring prompt action that occur in the course of surgery or situations where urgency precludes obtaining informed consent.

(4) Retention of a foreign object in a patient after surgery or other procedure, excluding objects intentionally implanted as part of a planned intervention and objects present prior to surgery that are intentionally retained.

(5) Death during or immediately after surgery of a normal, healthy patient who has no organic, physiologic, biochemical, or psychiatric disturbance and for whom the pathologic processes for which the operation is to be performed are localized and do not entail a systemic disturbance.

(b) Product or device events including:

(1) Patient death or serious disability associated with the use of contaminated drugs, devices, or biologics provided by the facility when the contamination is the result of generally detectable contaminants in drugs, devices, or biologics regardless of the source of the contamination or the product.

(2) Patient death or serious disability associated with the use or function of a device in patient care in which the device is used or functions other than as intended. “Device” includes, but is not limited to, catheters, drains, and other specialized tubes, infusion pumps, and ventilators.

(3) Patient death or serious disability associated with intravascular air embolism that occurs while being cared for in a facility, excluding deaths associated with neurosurgical procedures known to present a high risk of intravascular air embolism.

(c) Patient protection events including:

(1) An infant discharged to the wrong person.

(2) Patient death or serious disability associated with patient disappearance, excluding events involving adults who have decision-making capacity.

(3) Patient suicide or attempted suicide resulting in serious disability while being cared for in a facility due to patient actions after admission to the facility, excluding deaths resulting from self-inflicted injuries that were the reason for admission to the facility.

(d) Care management events including:

- (1) Patient death or serious disability associated with a medication error, including, but not limited to, errors involving the wrong drug, the wrong dose, the wrong patient, the wrong time, the wrong rate, the wrong preparation, or the wrong route of administration, excluding reasonable differences in clinical judgment on drug selection and dose.
- (2) Patient death or serious disability associated with a hemolytic reaction due to the administration of ABO/HLA-incompatible blood or blood products.
- (3) Maternal death or serious disability associated with labor or delivery in a low-risk pregnancy while being cared for in a facility, including events that occur within 42 days postdelivery and excluding deaths from pulmonary or amniotic fluid embolism, acute fatty liver of pregnancy, or cardiomyopathy.
- (4) Patient death or serious disability directly related to hypoglycemia, the onset of which occurs while the patient is being cared for in a facility.
- (5) Death or serious disability, including kernicterus, associated with failure to identify and treat hyperbilirubinemia in neonates during the first 28 days of life. "Hyperbilirubinemia" means bilirubin levels greater than 30 milligrams per deciliter.
- (6) Stage 3 or 4 ulcers acquired after admission to a facility, excluding progression from stage 2 to stage 3 if stage 2 was recognized upon admission.
- (7) Patient death or serious disability due to spinal manipulative therapy.
- (8) Artificial insemination with the wrong donor sperm or wrong egg.

(e) Environmental events including:

- (1) Patient death or serious disability associated with an electric shock while being cared for in a facility, excluding events involving planned treatments such as electric countershock.
- (2) Any incident in which a line designated for oxygen or other gas to be delivered to a patient contains the wrong gas or is contaminated by toxic substances.
- (3) Patient death or serious disability associated with a burn incurred from any source while being cared for in a facility.
- (4) Patient death or serious disability associated with a fall while being cared for in a facility.
- (5) Patient death or serious disability associated with the use or lack of restraints or bedrails while being cared for in a facility.

(f) Criminal events including:

- (1) Any instance of care ordered by or provided by someone impersonating a physician, nurse, pharmacist, or other licensed health care provider.
- (2) Abduction of a patient of any age.
- (3) Sexual assault on a patient within or on the grounds of a facility.
- (4) Death or significant injury of a patient or staff member resulting from a physical assault that occurs within or on the grounds of a facility."

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(b) If the hospital suspects an adverse event occurred, the hospital administrator or designee shall send a report to the department in electronic or paper format, within 15 days, including:

- (1) Hospital information;
- (2) Patient information;
- (3) Event information; and
- (4) Type of occurrence as listed in (a) above.

(c) For events reported in (b) above the hospital shall within 60 days provide the department:

- (1) An analysis that includes the type of harm and contributing factors; and
- (2) A corrective action plan that includes what corrective actions are planned, who is responsible for implementation, when the action will be implemented and what measurements will be used to evaluate the corrective action plan or the justification for not implementing a corrective action plan if the hospital determines that one is not required.

(d) If the hospital suspects that it received a patient from a sending hospital that was subject to an adverse event, then the receiving hospital administrator or designee shall notify the sending hospital's administrator or designee and the department. The department shall inform the sending hospital that a report is required in accordance with He-P 802.15(b).

(e) Upon receipt of a report of an adverse event, the department shall:

- (1) Review information for completeness;
- (2) Review corrective action plan for system changes that reduce the risk repeat of similar adverse events;
- (3) Communicate specific concerns to the hospital if the department does not find the corrective action plan credible;
- (4) Track and analyze adverse events for trends, underlying system problems; and
- (5) Provide information and make referrals to other state agencies as appropriate.

Source. #5846, eff 6-22-94, EXPIRED: 6-22-00

New. #9580, eff 10-24-09

He-P 802.16 Organization and Administration.

(a) Each hospital shall have a governing body whose duties shall include:

- (1) Management and control of the operation of the hospital;
- (2) Assessment and improvement of the quality of care and services;
- (3) Appointment of the hospital administrator;
- (4) Adoption of hospital by-laws defining responsibilities for the operation of the hospital, and establishment of a medical staff;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (5) Approval of medical staff by-laws as described in (d)(2) below, defining the medical staff responsibilities;
  - (6) Responsibility for management of the overall operation and fiscal viability of the hospital;
  - (7) Responsibility for determination of the qualifications for appointment for all managers, medical staff and staff; and
  - (8) Ensuring compliance with all relevant health and safety requirements of federal, state and local laws rules and regulations.
- (b) Each hospital shall have a full time administrator who:
- (1) Has a master's degree from an accredited institution and at least 4 years of experience working in a health related field or has a bachelors degree from an accredited institution and at least 8 years of experience working in a health related field; and
  - (2) Shall be responsible to the governing body for the daily management and operation of the hospital including:
    - a. Management and fiscal matters;
    - b. Implementing the by-laws adopted by the governing body;
    - c. The employment and termination of managers and staff necessary for the efficient operation of the hospital;
    - d. The designation of an alternate, in writing, who shall be responsible for the daily management and operation of the hospital in the absence of the administrator;
    - e. Attendance at meetings of the governing body, medical staff and staff, to serve as a liaison to the governing body;
    - f. The planning, organizing, and directing of such other activities as may be delegated by the governing body;
    - g. The delegation of responsibility to subordinates as appropriate;
    - h. Ensuring development and implementation of hospital policies and procedures on:
      1. Patient's rights as required by RSA 151:20;
      2. Advanced directives as required by RSA 137-J;
      3. Discharge planning as required by RSA 151:26;
      4. Organ and tissue donor identification and procurement;
      5. Withholding of resuscitative services from patients pursuant to RSA 137-H and RSA 137-J; and
      6. Adverse event reporting; and
    - i. Notifying the department, directly or through delegation, as specified in He-P 802.15 of any adverse event involving a patient.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(c) Each hospital shall have a medical staff in accordance with the by-laws adopted under (a)(4) above.

(d) The medical staff shall be responsible for:

(1) Appointment of an executive committee made up of members of the medical staff which shall make recommendations directly to the governing body with regard to:

- a. The process by which physicians or other licensed practitioners shall be admitted to practice in the hospital;
- b. Evaluation of individuals seeking medical staff membership;
- c. Delineation of what clinical privilege includes;
- d. The organization of the quality assessment and improvement activities of the medical staff; and
- e. The appointment of a medical director;

(2) Development of medical staff by-laws and policies in conjunction with the governing body which shall establish a mechanism for self-governance by the medical staff and accountability to the governing body;

(3) Monitoring and evaluation of the quality of patient care and patient care services in the hospital including:

- a. Monitoring of medication use and review of pharmacy activity in the hospital;
- b. Review of patient record quality;
- c. Review of blood use in the hospital; and
- d. Review of other functions such as risk management, infection control, disaster planning, hospital safety and utilization review; and

(4) Identifying and making available education programs designed to maintain the medical staff's expertise in areas related to the services provided in the hospital.

(e) There shall be a full time director of nursing services who is currently licensed in the state of New Hampshire pursuant to RSA 326-B, or licensed pursuant to the multi-state compact, and:

- (1) Is an RN with a bachelor's and a master's degree from an accredited institution;
- (2) Is an RN with a bachelor's degree and at least 4 years of relevant experience; or
- (3) Is an RN with a minimum of 8 years of relevant experience.

(f) The director of nursing services shall be responsible for:

- (1) Establishment of standards of nursing practice used in the hospital;
- (2) Ensuring that the admission process and patient assessment process coordinates patient requirements for nursing care with available nursing resources;
- (3) Participating with the governing body, administrator and medical staff to improve the quality of nursing care at the hospital;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (4) Nursing care as authorized by the nurse practice act and according to RSA 326; and
- (5) Nutritional monitoring.

Source. #5846, eff 6-22-94, EXPIRED: 6-22-00

New. #9580, eff 10-24-09

He-P 802.17 Personnel.

- (a) The licensee shall develop a job description for each position at the hospital containing:
  - (1) Duties of the position;
  - (2) Physical requirements of the position; and
  - (3) Education and experience requirements of the position.
- (b) For all new hires, the licensee shall:
  - (1) Obtain and review a criminal records check from the New Hampshire department of safety in accordance with RSA 151:2-d;
  - (2) Review the results of the criminal records check in accordance with (c) below;
  - (3) Verify the qualifications of all applicants prior to employment; and
  - (4) Verify that the applicant is not on the List of Excluded Individuals/Entities, maintained by the U.S. Department of Health and Human Services Office of Inspector General.
- (c) Unless a waiver is granted in accordance with He-P 802.10 and (d) below, the licensee shall not make a final offer of employment for any position if the individual:
  - (1) Has been convicted of any felony in this or any other state;
  - (2) Has been convicted for sexual assault, other violent crime, assault, fraud, abuse, neglect or exploitation;
  - (3) Has had a finding by the department or any administrative agency in this or any other state for assault, fraud, abuse, neglect or exploitation or any person; or
  - (4) Otherwise poses a threat to the health, safety or well-being of patients.
- (d) The department shall grant a waiver of (c) above if, after reviewing the underlying circumstances, it determines that the person does not pose a threat to the health, safety or well-being of patients.
- (e) The waiver in (d) above shall be permanent unless additional convictions or findings under (c) above occur.
- (f) The department shall review the information in (c) above and notify the licensee that the individual can no longer be employed if, after investigation, it determines that the individual poses a threat to the health, safety or well-being of a patient.
- (g) All employees and contracted employees shall:

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (1) Meet the educational and physical qualifications of the position as listed in their job description;
  - (2) Not be permitted to maintain their employment if they have been convicted of a felony, sexual assault, other violent crime, assault, fraud, abuse, neglect or exploitation of any person in this or any other state by a court of law or had a complaint investigation for abuse, neglect, or exploitation adjudicated and founded by the department unless a waiver has been granted by the department;
  - (3) Be licensed, registered or certified as required by state statute and as applicable;
  - (4) Receive an orientation within the first 3 days of work or prior to the assumption of duties that includes:
    - a. The hospital's policies on rights and responsibilities and complaint procedures as required by RSA 151:20;
    - b. The duties and responsibilities, policies procedures and guidelines, of the position they were hired for;
    - c. The hospital's infection control program;
    - d. The hospital's fire, evacuation and emergency plans which outline the responsibilities of personnel in an emergency; and
    - e. Mandatory reporting requirements for abuse or neglect such as those found in RSA 161-F and RSA 169-C:29; and
  - (5) Complete a mandatory annual in-service education, which includes a review of the hospital's:
    - a. Policies and procedures on patient rights and responsibilities and abuse or neglect;
    - b. Infection control; and
    - c. Education program on fire and emergency procedures.
- (h) Prior to having contact with patients, employees and contracted employees shall:
- (1) Submit to the licensee proof of a physical examination or a health screening conducted not more than 12 months prior to employment which shall include at a minimum the following:
    - a. The name of the examinee;
    - b. The date of the examination;
    - c. Whether or not the examinee has a contagious illness or any other illness that would affect the examinee's ability to perform their job duties;
    - d. Results of a 2-step tuberculosis (TB) test, Mantoux method or other method approved by the Centers for Disease Control (CDC); and
    - e. The dated signature of the licensed health practitioner;
  - (2) Be allowed to work while waiting for the results of the second step of the TB test when the results of the first step are negative for TB; and

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(3) Comply with the requirements of the Centers for Disease Control Guidelines for Preventing the Transmission of Tuberculosis in Health Facilities Settings, 2005, if the person has either a positive TB test, or has had direct contact or potential for occupational exposure to *Mycobacterium tuberculosis* through shared air space with persons with infectious tuberculosis.

(i) Employees, contracted employees, volunteers and independent contractors who have direct contact with patients who have a history of TB or a positive skin test shall have a symptomatology screen of a TB test.

(j) All licensees using the services of independent clinical contractors as direct care clinical personnel, shall ensure that the independent clinical contractors have:

- (1) Been oriented in accordance with (g)(4) above;
- (2) Submitted results of tuberculosis testing, either Mantoux method or blood assay, conducted within the previous 12 months;
- (3) Licenses that are current and valid; and
- (4) A written agreement that describes the services that will be provided.

(k) Current, separate and complete employee files shall be maintained and stored in a secure and confidential manner at the hospital.

(l) The employee file shall include the following:

- (1) A completed application for employment or a resume, including:
  - a. Identification data; and
  - b. The education and work experience of the employee;
- (2) A signed statement acknowledging the receipt of the hospital's policy setting forth the patient's rights and responsibilities, and acknowledging training and implementation of the policy as required by RSA 151:20;
- (3) A job description signed by the individual that identifies the:
  - a. Position title;
  - b. Qualifications and experience; and
  - c. Duties required by the position;
- (4) A record of satisfactory completion of the orientation program required by (g)(4) above and any required annual continuing education, if any;
- (5) A copy of each current New Hampshire license, registration or certification in health care field and CPR certification, if applicable;
- (6) Documentation that the required physical examination, or health screening, and TB test results or radiology reports of chest x-rays, if required, have been completed by the appropriate health professionals;
- (7) Documentation of annual in-service education as required by (g)(5) above;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (8) Documentation of an annual performance review;
- (9) Information as to the general content and length of all continuing education or educational programs attended;
- (10) A statement, which shall be signed at the time the initial offer of employment is made and then annually thereafter, stating that he or she:
  - a. Does not have a felony conviction in this or any other state;
  - b. Has not been convicted of a sexual assault, other violent crime, assault, fraud, abuse, neglect or exploitation or pose a threat to the health, safety or well-being of a patient; and
  - c. Has not had a finding by the department or any administrative agency in this or any other state for assault, fraud, abuse, neglect or exploitation of any person;
- (11) Documentation of the criminal records check; and
- (12) Documentation that the individual or entity is not on the List of Excluded Individuals/Entities, maintained by the U.S. Department of Health and Human Services Office of Inspector General.

(m) An individual need not re-disclose any of the matters in (10) and (11) above if the documentation is available and the department has previously reviewed the material and granted a waiver so that the individual can continue employment.

Source. #5846, eff 6-22-94, EXPIRED: 6-22-00

New. #9580, eff 10-24-09

He-P 802.18 Required Services.

- (a) Each licensee shall provide the services that have been disclosed on its application and have been approved for by the department.
- (b) If the licensee wishes to provide services other than the ones it is already licensed to provide, the hospital shall submit a letter of intent to provide the additional services to the department which shall include:
  - (1) A listing of the additional services to be provided;
  - (2) The physical resources and staffing necessary to provide the additional services;
  - (3) Floor plans describing change(s) or architectural plans if structural changes are involved;
  - (4) The date the hospital wishes to start such services; and
  - (5) Documentation of compliance with certificate of need rules according to RSA 151-C as appropriate.
- (c) Each hospital shall ensure the availability of sufficient staff, with the required skills and experience, to provide the services in (a) and (b) above.
- (d) The licensee shall have a policy governing CPR.
- (e) The licensee shall establish health and safety services to minimize the likelihood of accident or injury, with protective care and oversight while the patient is at the hospital that includes:

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (1) Monitoring the patients' functioning, safety and whereabouts; and
- (2) Emergency response and crisis intervention.

(f) The hospital shall have social services available to the patient and patient's family, which shall be provided by a social worker with at least a bachelor's degree in social work or human services and includes:

- (1) The compilation of a social history and conducting patient psychosocial assessments;
- (2) The provision of emotional support to patients and families or caregivers as needed;
- (3) Assistance with the patient's adaptation to the hospital and involvement in the plan of care; and
- (4) Advocacy for the patient's human and civil rights and responsibilities.

(g) The hospital shall complete discharge planning on all patients admitted to the hospital including the provision of written instructions to the patient, agent or guardian. Discharge planning shall include, as applicable:

- (1) The patient's medication needs upon discharge;
- (2) The need for medical equipment, special diets, or potential food-drug interactions;
- (3) The need for further placement in another health care hospital;
- (4) The need for home health services upon discharge; and
- (5) Discharge instructions and education shall be provided to the patient in writing.

(h) Hospitals shall provide dietary services that include:

- (1) Patients' diets that are supervised by a dietitian;
- (2) Diets that are in accordance with the orders of patients' licensed practitioners;
- (3) Three nutritionally balanced meals offered and available daily plus supplementary nourishment provided;
- (4) Substitutions if a patient declines the items offered; and
- (5) Food and drink provided to the patients that is:
  - a. Safe for human consumption and free of spoilage or other contamination;
  - b. Stored, prepared and served in a manner consistent with safe food handling practices for the prevention of food borne illnesses, including those set forth in He-P 2300;
  - c. Stored so as to protect it from dust, insects, rodents, overhead leakage, unnecessary handling and all other sources of contamination; and
  - d. Served in a manner appropriate to maintain proper food temperatures.

(i) If dietetic services are provided by contract with an off-site food management company, that company shall comply with (h) above.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(j) All hospital laboratories shall be in compliance with He-P 808, He-P 817 and CMS 42 CFR Part 493 – Laboratory Requirements.

(k) Pharmacies shall be staffed by a pharmacist who is licensed to practice pharmacy in the state of New Hampshire.

(l) Operation of the pharmacy and dispensing and administration of medication shall be in accordance with RSA 318 and RSA 318-B and the rules adopted thereunder.

Source. #5846, eff 6-22-94, EXPIRED: 6-22-00

New. #9580, eff 10-24-09

He-P 802.19 Patient Management.

(a) Admission procedures shall include:

- (1) Completion of a health assessment and medical evaluation in accordance with hospital policy which shall be documented for each patient accepted for care and treatment;
- (2) Provision of information concerning patient rights in a language the patient can understand, which may require a translator;
- (3) Provision of information in a clear concise manner to enable the patient to make appropriate treatment decisions;
- (4) Collection of specific patient medical and social history information as required by hospital policy including information concerning advanced directives or alternative decision makers; and
- (5) Development of a treatment plan.

(b) No hospital shall deny emergency treatment based on the source of payment.

(c) Discharge documentation shall include:

- (1) The date and time of discharge;
- (2) The status of the patient at the time of discharge; and
- (3) Any discharge planning or referrals that have been conducted for the patient.

Source. #5846, eff 6-22-94, EXPIRED: 6-22-00

New. #9580, eff 10-24-09

He-P 802.20 Patient Records.

(a) A patient record shall be maintained and kept active for each patient admitted to the hospital.

(b) Patient records shall be current and maintained in detail based on the services rendered to the patient.

(c) Patient records shall include:

- (1) Identification data including the patient's:
  - a. Name;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- b. Home address;
- c. Home telephone number;
- d. Emergency contact address and telephone number;
- e. Date of birth; and
- f. Guardian or agent as applicable;

(2) A signed acknowledgment of receipt of patient bill of rights by the patient, guardian, or agent;

(3) A written or electronic record of a health examination by a licensed practitioner;

(4) All medical orders;

(5) Documentation of all services provided including signed progress notes by:

- a. Nursing personnel;
- b. Physicians; or
- c. Other health professionals authorized by hospital policy; and

(6) Laboratory, x-rays or results of other diagnostic tests.

(d) Patient records shall be available to the professional staff and health care workers and any other person authorized by law or rule to review such records.

(e) Patient records shall be retained, accessible and stored in locked containers, cabinets, rooms or supervised areas.

(f) Hospital policy shall determine the method by which release of information from patient records shall occur.

(g) Patient records shall be safeguarded against loss or unauthorized use by implementation of appropriate use, handling and storage procedures.

(h) Patient records shall be retained 7 years after discharge of a patient, and in the case of minors, patient records shall be retained until at least one year after reaching age 18, but in no case shall they be retained for less than 7 years after discharge.

(i) The hospital shall arrange for the storage of and access to medical records for 7 years in the event the hospital ceases operation.

(j) Electronic records shall be maintained according to current HIPAA regulations.

Source. #5846, eff 6-22-94, EXPIRED: 6-22-00

New. #9580, eff 10-24-09

He-P 802.21 Infection Control.

(a) The licensee shall develop and implement an infection control program that educates and provides procedures for the prevention, control and investigation of infectious and communicable diseases.

- (b) The infection control program shall include documentation procedures for:
- (1) Proper hand washing techniques;
  - (2) The utilization of standard precautions, as specified by the United States Centers for Disease Control and Prevention 2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings, June 2007;
  - (3) The management of patients with infectious or contagious diseases or illnesses;
  - (4) The handling, transport and disposal of those items identified as infectious waste in Env-Sw 103.28;
  - (5) Reporting of infectious and communicable diseases as required by He-P 301;
  - (6) Evaluating and revising the infection control program in accordance with current CDC recommended actions;
  - (7) Maintenance of a sanitary physical environment; and
  - (8) Infection control policies specific to each department.
- (c) The infection control education program shall be completed by all new employees, all current employees and all contracted employees on an annual basis and shall address the:
- (1) Cause of infections;
  - (2) Effect of infections;
  - (3) Transmission of infections; and
  - (4) Prevention and containment of infections.
- (d) Direct care personnel or staff infected with a disease or illness transmissible through food, saliva or droplets, shall not work in food service or provide direct care in any capacity until they are no longer contagious.
- (e) Direct care personnel or staff infected with scabies or lice shall not provide direct care to patients or work in food services until such time as they are no longer infected.
- (f) Pursuant to RSA 141-C:1, employees with a newly positive Mantoux tuberculosis skin test or a diagnosis of suspected active pulmonary or laryngeal tuberculosis shall be excluded from the workplace until a diagnosis of tuberculosis is excluded or until the employee is receiving tuberculosis treatment and has been determined to be noninfectious by a licensed practitioner.
- (g) Employees with an open wound who work in food service or provide direct care in any capacity shall cover the wound at all times by an impermeable, durable, tight-fitting bandage.
- (h) The licensee shall immunize all consenting patients for influenza and pneumococcal disease and all consenting personnel for influenza in accordance with RSA 151:9-b and report immunization data to the department's immunization program.
- (i) The hospital shall have available space, supplies and equipment for proper handling of suspected or actual infectious conditions.

(j) The hospital shall require that licensed practitioners evaluate all patients at risk for an infection or communicable disease to ensure the detection or presence of same.

(k) The hospital administrator shall appoint an infection control officer who shall:

(1) Receive reports of communicable and infectious diseases; and

(2) Report to the director of the division of public health services all diseases for which reporting is required under RSA 141-C.

(l) The hospital shall have a policy requiring employees to make a report to the infection control officer if the employee suspects that they, another employee or patient has a communicable disease.

(m) The hospital shall identify, track, and report infections and process measures, as required by RSA 151:33 and He-P 309.

Source. #9580, eff 10-24-09; amd by #9851, eff 1-14-11;  
amd by #10079, eff 1-26-12

He-P 802.22 Quality Assessment and Performance Improvement.

(a) The hospital shall establish an interdisciplinary quality assessment and performance improvement committee which shall:

(1) Meet at least quarterly to evaluate quality assessment and performance improvement activities; and

(2) Make recommendations to the governing body to improve the quality of care.

(b) Quality assessment and performance improvement activities shall include:

(1) Review of patterns and trends of activities which affect the quality of care;

(2) Ensuring that quality control logs are maintained for any laboratory controls and proficiency testing required;

(3) Ensuring that quality control logs for preventive maintenance and safety checks are maintained for all equipment according to manufacturer's recommendations and/or code requirements;

(4) Ensuring that the medical staff monitoring and evaluation of patient care recommendations referenced in He-P 802.16(d)(3), are considered by the full quality assessment and improvement committee; and

(5) Reviewing and making recommendations for improvement in areas such as:

a. Infection surveillance;

b. Drug usage evaluation;

c. Morbidity;

d. Risk assessment;

e. Mortality;

f. Environmental safety;

- g. Monitoring of staff quality control practices in each service; and
- h. Adverse events in accordance with He-P 802.15.

Source. #9580, eff 10-24-09

He-P 802.23 Sanitation.

(a) The licensee shall maintain a clean, safe and sanitary environment throughout the licensed hospital premises.

(b) The furniture, floors, ceilings, walls, and fixtures shall be clean, sanitary and in good repair.

(c) A supply of potable water shall be available for human consumption and food preparation.

(d) A supply of hot and cold running water shall be available at all times and precautions such as temperature regulation shall be taken to prevent a scalding injury to the patients.

(e) Hot water shall be of a high enough temperature to ensure sanitation and food safety when used for laundry and food preparations, as required in the American Institute of Architects "Guidelines for the Design and Construction of Health Care Facilities," General Hospital chapter, 2006 edition, and summarized as follows:

(1) 105-120 degrees Fahrenheit for clinical areas, the range represents the minimum and maximum allowable temperatures;

(2) 120 degrees Fahrenheit for dietary areas. Provisions shall be made to provide 180 degrees Fahrenheit rinse water at the warewasher, and may be by separate booster, unless a chemical rinse is provided; and

(3) 160 degrees Fahrenheit for laundry by steam jet or separate booster heater, unless a proven processes which allows cleaning and disinfection of linen with decreased water temperatures is used, but the process must meet the designed water temperatures specified by the manufacturer.

(f) All patient bathing and toileting facilities shall be cleaned and disinfected to prevent illness or contamination.

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

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

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

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

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

(l) Trash receptacles in food service area shall be covered at all time.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (m) The following requirements shall be met for laundry services:
  - (1) The laundry room shall be kept separate from kitchen and dining areas;
  - (2) Clean linen shall be stored in a clean area and separated from soiled linens at all times;
  - (3) Soiled materials, linens and clothing shall be transported in a laundry bag, sack or container and washed in a sanitizing solution used in accordance with the manufacturer's recommendations; and
  - (4) Soiled linens and clothing which are considered contaminated with infectious waste under Env-Sw 103.28 shall be handled as infectious waste.
- (n) Laundry rooms and bathrooms shall have non-porous floors.
- (o) Clean supplies shall be stored in dust-free and moisture-free storage areas.
- (p) Any hospital that has its own water supply and whose water has been tested and has failed to meet the acceptable levels identified in this section, or as required by the department of environmental services, shall notify the department upon receipt of notice of a failed water test.

Source. #9580, eff 10-24-09

He-P 802.24 Physical Environment.

- (a) The licensed premises shall be maintained so as to provide for the health, safety, well-being and comfort of patients and personnel, including reasonable accommodations for patients and personnel with mobility limitations.
- (b) Equipment providing heat within a hospital including, but not limited to, gas furnace or boiler, oil furnace or boiler, wood furnace or boiler or pellet furnace or boiler shall:
  - (1) Maintain a temperature of at least 70 degrees Fahrenheit during the day if patient(s) are present; and
  - (2) Be serviced once a year or as recommended by the manufacturer with written documentation of such service retained for at least 4 years.
- (c) Electric heating systems shall be exempt from (b)(2) above.
- (d) Portable space heating devices shall be prohibited, unless the following are met:
  - (1) Such devices are used only in employee areas where personnel are present and awake at all times; and
  - (2) The heating elements of such devices do not exceed 212 degrees Fahrenheit.
- (e) Any heating device other than a central plan shall be designed and installed so that:
  - (1) Combustible material cannot be ignited by the device or its appurtenances;
  - (2) If fuel-fired, such heating devices comply with the following:
    - a. They shall be chimney or vent connected;
    - b. They shall take air for combustion directly from outside; and

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- c. They shall be designed and installed to provide for complete separation of the combustion system from the atmosphere of the occupied area; and
  - (3) Any heating device has safety features to immediately stop the flow of fuel and shut down the equipment in case of either excessive temperatures or ignition failure.
- (f) Unvented fuel-fired heaters shall not be used in any hospital.
- (g) Plumbing shall be sized, installed, and maintained in accordance with the provisions of the International Plumbing Code, as specified in the State Building Code under RSA 155-A:1, IV, as amended by the Building Code Review Board pursuant to RSA 155-A:10, V.
- (h) Screens shall be provided for doors and windows that are left open to the outside.
- (i) Doors that are self-closing and remain closed when not in use are exempt from the requirement in (h) above.
- (j) The hospital shall have a telephone to which the patients have access.
- (k) Toilet and bathing facilities shall be provided to meet patient needs in relation to the number, acuity, and sex of the patients.
- (l) Separate toilets with hand washing sinks shall be provided for personnel and visitors.
- (m) All toilets shall be vented out-of-doors.
- (n) Each bathroom shall be equipped with:
  - (1) Soap dispensers;
  - (2) Paper towels or a hand-drying device providing heated air; and
  - (3) Hot and cold running water.
- (o) All showers and tubs shall have slip resistant floors and surfaces which are intact, easily cleanable, and impervious to water.
- (p) All bathroom and closet door latches or locks shall be designed for easy opening from the inside and outside in an emergency.
- (q) The hospital shall comply with all state and local codes and ordinances for:
  - (1) Zoning;
  - (2) Building;
  - (3) Health;
  - (4) Fire;
  - (5) Waste disposal; and
  - (6) Water.
- (r) The hospital shall be accessible at all times of the year.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(s) The hospital shall provide housekeeping and maintenance adequate to protect patients, personnel and the public.

(t) Reasonable precautions, such as repair of holes and caulking of pipe channels, shall be taken to prevent the entrance of rodents and vermin.

(u) Doors shall be of such width as to permit removal of hospital beds.

(v) Corridors in patient occupied areas shall be wide enough to permit passage of 2 hospital beds, in addition to complying with NFPA 101 for means of egress.

(w) Ventilation shall be provided throughout the entire hospital and, whenever necessary, mechanical means such as fans shall be provided to remove excessive heat, moisture, objectionable odors, dust, or explosive or toxic gases.

(x) There shall be a back-up generator system to provide emergency power pursuant to following, as adopted by the commissioner of the department of safety in Saf-C 6000:

(1) The Electrical Systems chapter of NFPA 99, Health Care Facilities Code; and

(2) The Standard for Emergency and Standby Power Systems, NFPA 110.

(y) Waste water shall be disposed of through a system which meets the requirements of RSA 485:1-A and Env-Ws 1000. Sink drains which have no connection to sanitary sewers or septic systems and similar methods of disposal above ground shall be strictly prohibited.

(z) Facilities shall provide for prompt cleaning of bedpans, urinals and other utensils.

(aa) Any locked door providing egress from a patient room and/or means of egress within a hospital shall meet the requirements of the Health Care Occupancy chapter of NFPA 101, Life Safety Code, as adopted by the commissioner of the department of safety in Saf-C 6000.

(ab) Delayed egress doors on locked units shall be equipped with locking devices, which shall:

(1) Unlock upon actuation of the automatic fire detection and sprinkler system;

(2) Unlock upon loss of power; and

(3) No more than one such device may be located in any egress path.

(ac) A system for sterilization of equipment and supplies shall be provided which shall be checked for effective sterilization in accordance with the manufacturer's recommendation and the results of these quality control tests shall be documented.

(ad) Sterile supplies and equipment shall not be mixed with unsterile supplies and shall be stored in dustproof and moisture free, labeled containers or cupboards.

Source. #9580, eff 10-24-09

He-P 802.25 Patient Care Units and Patient Rooms.

(a) There shall be a nurse's station for each patient care unit.

(b) There shall be a utility room for every patient care unit with work and storage space and equipment for cleaning and sterilizing utensils as appropriate.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(c) Patient rooms in which patients shall be housed for more than 24 hours shall be outside rooms and shall not be located below grade unless they are dry, well ventilated, and have window space equivalent to or greater than 8% of the room's square footage.

(d) There shall be a minimum of 3 feet of clear aisle space leading from the side of any patient bed to the room door.

(e) As stated in the American Institute of Architects, "Guidelines for Design and Construction of Health Care Facilities," General Hospital chapter, 2006 edition, patient rooms shall comply as follows:

(1) For multiple bed rooms:

- a. General patient rooms shall have 80 square feet/patient;
- b. Critical care units shall have 150 square feet/patient; and
- c. Intermediate care units shall have 100 square feet/ patient;

(2) For single rooms:

- a. General patient rooms shall have 100 square feet;
- b. Critical care units shall have 150 square feet; and
- c. Intermediate care units shall have 120 square feet;

(3) For pediatric nursery, to minimize the possibility of cross infection, with the exception of pediatric critical care units, each nursery room serving pediatric patients shall contain no more than 8 bassinets. Each bassinet shall have a minimum clear floor area of 40 square feet;

(4) For pediatric and adolescent rooms, requirements shall be the same as for adult beds due to the size variation and the need to change from cribs to beds and vice versa; and

(5) For newborn ICU, there shall be 120 square feet per bassinet excluding sinks and aisles.

(f) Each patient room shall be served by at least one calling station for two-way communication provided that each bed has its own call device and two call devices serving adjacent beds may be served by one calling station. Psychiatric units and psychiatric hospitals shall be exempt from this requirement.

(g) All medication in each nursing unit shall be clearly labeled and stored in a lighted area or cabinet which is either locked or under constant observation.

Source. #9580, eff 10-24-09

He-P 802.26 Life Safety and Fire Safety Procedures.

(a) The hospital administrator or designee shall appoint a safety committee which shall include representatives from administration, clinical services and support services.

(b) The safety committee shall:

(1) Appoint a safety officer who shall:

- a. Inspect the hospital at least semi-annually to assure that all safety precautions are met; and
- b. Report to the safety committee any findings noted during the inspections;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(2) Develop or approve written policies and procedures covering all matters of safety and fire protection and an emergency response plan, including;

a. The emergency procedures required by the emergency response plan shall include, but are not limited to, evacuation routes, emergency notification numbers and emergency instructions and shall be posted in locations accessible to staff and visitors;

b. The hospital fire safety plan shall provide for the following:

1. Use of alarms;
2. Transmission of alarm to fire department;
3. Emergency phone call to fire department;
4. Response to alarms;
5. Isolation of fire;
6. Evacuation of immediate area;
7. Evacuation of smoke compartment;
8. Preparation of floors and building for evacuation; and
9. Extinguishment of the fire;

c. Ensuring that the fire safety and evacuation plans are available to all supervisory personnel;

d. Ensuring that all employees receive in-service annual training to clarify their responsibilities in carrying out the emergency plan; and

e. The required plan shall be readily available at all times in the telephone operator's location or at the security center; and

(3) Conduct fire drills, including the transmission of a fire alarm signal and simulation of emergency fire situation, as follows:

a. Infirm or bedridden patients shall not be required to be moved during drills to safety areas or to the exterior of the building;

b. Drills shall be conducted quarterly on each shift to familiarize hospital personnel with the signals and emergency action required under varied conditions; and

c. When drills are conducted between 9:00 p.m./2100 hours and 6:00 A.M./0600 hours, a coded announcement may be used instead of audible alarms.

(c) The hospital shall notify the department and local fire department when a required sprinkler or fire alarm system is out of service for more than 4 hours in a 24-hour period. The hospital shall be evacuated or an approved dedicated fire watch shall be provided for all parties left unprotected by the shutdown until the sprinkler or alarm system has been returned to service.

(d) The hospital shall notify the department when the emergency power has been utilized for 6 or more hours due to power outage.

(e) If there is an incident including, but not limited to, fire, toxic fumes including smoke that requires the evacuation of the hospital all or in part, the hospital shall notify the department immediately by phone and within 72 hours in writing. A full follow-up written report on the incident shall be completed and submitted to the department when the investigation has been conducted and completed, including what the incident was, action taken, injuries and or deaths that occurred during incident including during evacuation, emergency procedures followed, notification of emergency services including local fire departments and the corrective actions taken.

Source. #9580, eff 10-24-09

He-P 802.27 Psychiatric Units. If the hospital has a distinct psychiatric unit, then:

(a) The psychiatric unit shall have a clinical director, service chief or equivalent that meets the training and experience requirements for examination by the American Board of Psychiatry and Neurology, or the American Osteopathic Board of Neurology and Psychiatry;

(b) The psychiatric unit shall have a director of nursing services who shall be:

(1) A registered nurse (RN) currently licensed in New Hampshire who has a master's degree or its equivalent in psychiatric and mental health nursing; or

(2) An RN with a minimum of 3 years of experience in the care of the mentally ill and to include one year in a nursing management position;

(c) Admission procedures shall include, in addition to those defined under He-P 802.19(a):

(1) A psychiatric diagnosis

(2) An admitting diagnosis including any concurrent disease; and

(3) Completion of a psychosocial assessment and family history as appropriate;

(d) The psychiatric unit shall provide emergency psychiatric services on a 24 hour per day basis, 7 days per week;

(e) The hospital shall perform a psychiatric evaluation on each patient admitted to the psychiatric unit including:

(1) Medical history;

(2) Present mental status;

(3) Notation about the onset of symptoms and circumstances leading to admission and admitting diagnosis;

(4) An estimate of the patients intellectual functioning, memory functioning and orientation;

(5) An evaluation of the patients use or abuse of alcohol or drugs, as appropriate; and

(6) When indicated a neurological examination;

(f) The hospital shall require that each patient have an individual treatment plan which includes:

(1) The diagnosis;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (2) An inventory of the patient's strengths and weaknesses which would enable him to function in a normal situation;
  - (3) Treatment goals;
  - (4) The specific treatment modalities used based on the strengths and weaknesses demonstrated by the patient;
  - (5) The responsibilities of each treatment team member; and
  - (6) Documentation as to the specific therapeutic activities the patient shall participate in during his or her hospitalization;
- (g) The psychiatric unit shall provide therapeutic activities which are:
- (1) Appropriate to the needs and interests of the patients;
  - (2) Directed toward restoring the patient's physical and psychosocial functioning; and
  - (3) In accordance with the treatment plan in (f) above;
- (h) Progress notes shall be recorded in the patient's medical record by all professional staff involved in carrying out the individual treatment plan for each patient;
- (i) In the psychiatric unit where patients may be a hazard to themselves or others, all glazing, both interior and exterior, borrow lights, and glass mirrors shall be fabricated with laminated safety glass or protected by polycarbonate, laminate, or safety screens;
- (j) There shall be at least one seclusion room for each 24 beds or fraction thereof on each psychiatric unit;
- (k) Seclusion rooms, if used as a treatment modality, shall:
- (1) Have an area of at least 60 square feet with a minimum wall length of 7 feet and a maximum wall length of 11 feet;
  - (2) Be accessed by an anteroom or vestibule that also provides access to a toilet room. The doors to the anteroom and the toilet room shall be a minimum of 3 feet 8 inches wide;
  - (3) Be for only one patient;
  - (4) Be equipped with an observation window;
  - (5) Be under constant observation, which may include video monitoring, when being used;
  - (6) Be constructed to prevent patient hiding, escape, injury, or suicide;
  - (7) Be constructed of materials that are of a type acceptable to the local authority having jurisdiction and the state regulatory agency when the interior of the seclusion treatment room is padded with combustible materials;
  - (8) Be protected with not less than one-hour rated construction for the floor, walls, ceilings, and all openings;
  - (9) Not contain outside corners or edges;
  - (10) Have the ability to be locked as applicable; and

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (11) Not have electrical switches and receptacles within the rooms;
- (l) The room(s) shall be appropriately located for direct nursing staff supervision;
- (m) Forensic units shall have security vestibules or sally ports at the unit entrance;
- (n) Care and supervision of child psychiatric patients shall be separate and distinct from adult psychiatric patients;
- (o) Patient room areas with beds or cribs shall be at least 100 square feet for single-bed rooms, 80 square feet per bed and 60 square feet per crib in multiple-bed rooms;
- (p) Geriatric, Alzheimer's and other dementia units patient room areas shall be at least 120 square feet in single bedrooms and 200 square feet in multiple-bed rooms;
- (q) Maximum room capacity shall be 2 patients;
- (r) A visitor room for patients to meet with friends or family with a minimum floor space of 100 square feet shall be provided;
- (s) A quiet room shall be provided for a patient who needs to be alone for a short period of time but does not require a seclusion room. A group therapy room may be combined with this space if the unit accommodates not more than 12 patients and when at least 225 square feet of enclosed private space is available for group therapy activities;
- (t) When door closers are required, they shall be mounted on the public side of the door rather than the private patient side of the door and whenever possible they should be within view of a nurse or staff workstation;
- (u) Door hinges shall be designed to minimize points for hanging;
- (v) Door lever handles shall point downward when in the latched positions. All hardware shall have tamper-resistant fasteners;
- (w) All window glazing, borrow lights, and glass mirrors shall be fabricated with laminated safety glass or protected by polycarbonate, laminate, or safety screens;
- (x) Clothing rods or hooks, if present, shall be designed to minimize the opportunity for patients to cause injury;
- (y) Drawer pulls shall be of the recessed type to eliminate the possibility of use as a tie-off point;
- (z) Special design considerations for injury and suicide prevention shall be given to shower, bath, toilet and sink hardware and accessories, including grab bars and toilet paper holders;
- (aa) Grab bars are required in 10 percent of the private/semi-private patient toilet rooms. Where grab bars are provided, they shall be of a removable type and the space between the bar and the wall shall be filled to prevent a cord being tied around it for hanging;
- (ab) The following shall not be permitted:
  - (1) Towel bars;
  - (2) Shower curtain rods; and

(3) Lever handles;

(ac) In private patient bathrooms, the ceiling shall be of the tamper-resistive type or of sufficient height to prevent patient access;

(ad) In patient bedrooms where acoustical ceilings are permitted, the ceiling shall be secured or of sufficient height to prevent patient access;

(ae) In private patient bathrooms, any plumbing, piping, ductwork, or other potentially hazardous elements shall be concealed above a ceiling;

(af) In patient bedrooms and bathrooms, ceiling access panels shall be secured or of sufficient height to prevent patient access;

(ag) In patient bedrooms and bathrooms, ventilation grilles shall be secured and have small perforations to eliminate their use as tie-off point or shall be of sufficient height to prevent patient access;

(ah) In unsupervised patient areas, sprinkler heads shall be recessed or of a design to minimize patient access;

(ai) In private patient bathrooms, air distribution devices, lighting fixtures, sprinkler heads and other appurtenances shall be of the tamper-resistant type;

(aj) Electronic surveillance systems are not required in psychiatric nursing units, but if provided for the safety of the residents, any devices in resident areas shall be mounted in a tamper-resistance enclosure that is unobtrusive; and

(ak) A nurse-call system shall have tamper-resistant fasteners.

Source. #9580, eff 10-24-09

He-P 802.28 Obstetrics. If a hospital provides the services of obstetrics, then:

(a) The unit shall be exclusively designed for maternity patients and their newborn infants, except that gynecological patients, with no communicable diseases, may be admitted when the need exists only as determined by hospital policy;

(b) The department head shall be, at a minimum, a registered nurse with education, training and experience in obstetric nursing;

(c) A pediatrician or family practitioner shall direct the medical care of newborn infants;

(d) Personnel assigned to the unit shall be free of infections and shall not be assigned to care for any other patients who might present a hazard of cross-infection;

(e) The unit shall be staffed with nurses qualified by obstetrical education, training and experience and in numbers adequate to meet the needs of each patient;

(f) The unit shall be physically separate and arranged to prevent traffic from other areas of the hospital to pass through the unit;

(g) The unit shall have facilities for the following functions:

(1) Antepartum care for patient stabilization;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (2) Fetal diagnostic testing such as amniocentesis, ultrasound, oxytocin stress tests and non-stress tests;
- (3) Labor observation and evaluation;
- (4) Labor;
- (5) Delivery;
- (6) Postpartum care; and
- (7) Neonatal care;

(h) The functions listed in (g) above may be combined in a single room or separated into separate service areas;

(i) If the functions listed in (g) above are in separate areas, the following shall apply:

- (1) Labor rooms shall include toilet and hand washing facilities in or immediately adjacent to the room;
- (2) Delivery rooms shall be in close proximity to the labor rooms;
- (3) Drugs and equipment necessary for emergency treatment of mother and infant shall be available in the delivery room;
- (4) Occupancy in rooms for postpartum care shall be limited to 2 patients; and
- (5) Lavatories shall be either in the room or available without accessing a general corridor;

(j) If the functions listed in (g) above are combined, the rooms shall include the following:

- (1) Each room shall be equipped for all types of deliveries except Cesarean section births or any delivery requiring general anesthesia;
- (2) Each combined function room shall have a toilet and shower room attached;
- (3) Lavatories shall contain facilities for hand washing, and infant bathing; and
- (4) Each combined function room shall have windows;

(k) Care of infants who have shown no complications shall be provided either in a newborn nursery area or in the mother's room;

(l) If nursery care is provided:

- (1) Each newborn nursery room shall contain no more than 16 infant stations. When a rooming in program is used, the total number of bassinets in these units may be reduced, but the newborn nursery shall not be omitted in its entirety from any hospital that includes delivery services;
- (2) Continuing care nursery for hospitals that provide continuing care for infants requiring close observation, such as, low birth-weight babies who are not ill but require more hours of nursing than normal neonates, the minimum floor space shall be 50 square foot per bassinet, exclusive of auxiliary work areas;
- (3) Labor and delivery room(s) shall have a minimum clear area of 100 square foot per bed; and

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (4) Cesarean/delivery room(s) shall have minimum clear floor area of 360 square foot with a minimum dimension of 16 feet exclusive of built-in shelves or cabinets and must have an area for scrubbing;
- (m) The number of bassinets shall exceed the number of obstetrical beds by 25% and, if intensive neonatal care is provided, the number of bassinets shall be increased by an additional 10%;
- (n) Emergency equipment for resuscitation shall be readily available and in operable condition;
- (o) Equipment for care of at risk infants shall be available;
- (p) The unit shall have the ability to provide isolation for infants with contagious diseases or infections; and
- (q) Care of infants, either born in the unit or transported to the unit immediately after birth, shall include:
  - (1) Use of a prophylactic in the infant's eyes in accordance with RSA 132:6; and
  - (2) Provision for accurate identification of infants.

Source. #9580, eff 10-24-09

He-P 802.29 Radiology and Radiation Services. If a hospital provides radiology, nuclear medicine, and therapeutic radiation services, then:

- (a) The chief of radiology shall be a medical radiologist or a consulting medical radiologist;
- (b) There shall be diagnostic x-ray facilities, providing a complete service, consisting of radiographic and fluoroscopic equipment;
- (c) There shall be adequate toilet and dressing rooms for patients;
- (d) Diagnostic x-ray and radiation therapy equipment shall be registered and radioactive material shall be licensed, in accordance with RSA 125-F and shall meet all applicable requirements of He-P 4000;
- (e) The technical staff employed by the radiology department shall perform the service as assigned by the medical radiologist for diagnostic uses of radiation, and by the radiation oncologist for the therapeutic uses of radiation, and in accordance with He-P 4000;
- (f) The chief of radiology shall establish procedures necessary to assure the safe and proper use of all x-ray equipment and diagnostic uses of radioactive material in accordance with He-P 4000, including that technologists be trained commensurate to their duties in the operation and use of x-ray or radiation therapy equipment;
- (g) The medical director of radiation oncology shall establish procedures necessary to assure the safe and proper use of all therapeutic radiation machines and therapeutic uses of radioactive material in accordance with He-P 4000, including that technologists be trained commensurate to their duties in the operation and use of x-ray or radiation therapy equipment; and
- (h) A radiation oncologist or therapeutic radiologist shall supervise the therapeutic uses of radiation, including the use of radiation therapy machines, in accordance with He-P 4000.

Source. #9580, eff 10-24-09

He-P 802.30 Surgical Services.

- (a) Hospitals which provide surgical services shall determine the scope of surgical services that shall be performed in the surgical suite.
- (b) The hospital shall determine the types of anesthesia that shall be utilized for each type of surgical procedure and assure its availability in the surgical suite.
- (c) The surgical suite shall be a separate unit, physically set apart from all other departments.
- (d) The surgical suite shall contain the following:
  - (1) At least one operating room equipped for general operating use within the scope of surgical services determined by the hospital in accordance with (a) above;
  - (2) Facilities for sterilization, scrubbing and clean-up separate from the operating room;
  - (3) Clean, sterile and soiled or decontamination rooms which shall be separate and distinct;
  - (4) Appropriate storage space for sterile supplies, instruments, anesthesia and medications;
  - (5) Emergency lighting throughout the hospital including the operating suite;
  - (6) Adequate ventilation, including air exchanges, humidity and temperature which shall meet the requirements of the American Institute of Architects "Guidelines for Design and Construction of Health Care Facilities," General Hospital chapter, 2006 edition, for all rooms, including but not limited to, operating rooms, sterile supply, clean, and decontamination rooms; and
  - (7) Space routinely used for administering inhalation anesthesia and inhalation analgesia which shall be served by a scavenging system to vent waste gases with the air supply at or near the ceiling and return or exhaust air inlets near the floor level.
- (e) The nursing director of the surgical suite shall be a registered nurse with education, training and experience in surgical nursing techniques.
- (f) The anesthesiologist shall be qualified in anesthesiology in accordance with the medical staff bylaws of the hospital.
- (g) The chief of surgical service shall be board certified in surgery.
- (h) The surgical suite shall not be used for childbirth except for Caesarian section procedures.
- (i) Except in emergencies, no operation shall be performed until:
  - (1) The patient has had a physical examination and medical history completed;
  - (2) Any indicated laboratory and x-ray examinations have been completed; and
  - (3) The preoperative diagnosis has been recorded in the patient's record.

Source. #9580, eff 10-24-09

He-P 802.31 Emergency Services.

- (a) The medical director of emergency services shall be certified by the American College of Emergency Physicians in emergency medicine or the equivalent osteopathic board, be eligible to sit for the examination in emergency medicine or have equivalent training or experience in emergency medicine in the

following skills in accordance with the American College of Emergency Physicians (ACEP) "Emergency Department Planning and Resource Guidelines," 2007 edition:

- (1) Bladder catheterization;
- (2) Cardiopulmonary resuscitation;
- (3) Cardiac electroconversion;
- (4) Cardiac pacer placement;
- (5) Cricothyrotomy;
- (6) CVP catheter placement;
- (7) EKG interpretation;
- (8) Endotracheal intubation;
- (9) Gastric lavage;
- (10) Initial fracture/dislocation management;
- (11) Nasal packing;
- (12) Pericardiocentesis;
- (13) Spinal immobilization; and
- (14) Thoracostomy tube drainage.

(b) The medical director of emergency services shall hold current certification in advanced cardiac life support from the American Heart Association and in advanced trauma life support from the American College of Surgeons.

(c) An emergency department shall offer comprehensive emergency care 24 hours a day with at least one physician experienced in emergency care in the emergency care area or immediately available within the hospital.

(d) The nursing director of the emergency services shall be a registered nurse who is qualified by education, training and experience to supervise the provision of emergency nursing services.

(e) The emergency department shall contain:

- (1) Appropriate access from ambulance unloading area to facilitate easy transfer of patients;
- (2) A waiting area for families of patients who are being treated or for patients waiting to be seen;
- (3) Treatment rooms for the care of emergency patients that are equipped to provide treatment of life-threatening conditions; and
- (4) Treatment areas which provide privacy for patient treatment without compromising patient care.

(f) Emergency service policies and procedures shall be developed regarding assessment and treatment by physicians and other professional staff.

(g) The hospital shall develop a procedure for reporting suspected or alleged cases of child or adult abuse and neglect and emergency service professional staff shall be trained in this procedure.

(h) Documentation of care provided in the emergency service department shall include the following information:

(1) A record of the emergency care provided; and

(2) A record of any emergency care provided prior to the patient's arrival in the emergency room.

Source. #9580, eff 10-24-09

He-P 802.32 Critical Access Hospital. A critical access hospital (CAH), as defined in He-P 802.03(r), shall meet the criteria set forth in He-P 802, except as follows:

(a) A CAH may also be granted swing-bed approval to provide post-hospital skilled nursing facility-level care in inpatient beds;

(b) A CAH may contract with a licensed hospice to provide hospice care;

(c) The CAH may dedicate beds to the hospice, but the beds shall be counted toward the 25-bed maximum;

(d) The hospice patient shall not be included in the calculation of the 96-hour annual average length of stay;

(e) The hospice patient may be admitted to the CAH for any care involved in their treatment plan or for respite care;

(f) In addition to the 25-inpatient CAH beds, a CAH may also operate a psychiatric and/or a rehabilitation distinct part unit of up to 10 beds each;

(g) A CAH shall notify the department when it receives CAH status;

(h) The department shall issue a license to a CAH, which shall designate the number of staffed beds, up to the maximum allowed under critical access;

(i) The total number of certificate of need–approved beds shall be listed separately in the comments section of the license certificate;

(j) The CAH shall be exempt from He-P 802.30(f) and instead may have a certified registered nurse anesthetist;

(k) If a CAH wishes to change its critical access status, the hospital shall notify the department and the number of certificate of need–approved beds shall be designated on the new license certificate; and

(l) The CAH shall be exempt from He-P 802.31(a) and (c).

Source. #9580, eff 10-24-09

He-P 802.33 Psychiatric Hospital. A psychiatric hospital, as defined in He-P 802.03(bl), shall meet the criteria set forth in He-P 802, including He-P 802.27, and:

(a) Each psychiatric hospital shall have a full time administrator who meets the qualifications for an administrator as defined in He-P 802.16(b) and shall be responsible to the governing body for the daily

management and operation of the hospital which, in addition to those responsibilities defined in He-P 802.16(b), shall include ensuring development and implementation of hospital policies and procedures on:

- (1) Voluntary and involuntary emergency admission; and
  - (2) Seclusion and restraints; and
- (b) Psychiatric hospitals shall be exempt from He-P 802.16(e) and (f) and He-P 802.31.

Source. #9580, eff 10-24-09

He-P 802.34 Rehabilitation Hospital.

(a) A rehabilitation hospital, as defined in He-P 802.03(bn), shall meet the criteria set forth in He-P 802 and:

(1) Each rehabilitation hospital shall have a full time administrator who meets the qualifications for an administrator as defined in He-P 802.16(b)(1)-(2) and is responsible to the governing body for the daily management and operation of the hospital including those responsibilities defined in He-P 802.16(b); and

(2) Staffing requirements shall include:

a. A director of nursing services who shall be exempt from He-P 802.16(e) and (f) and instead:

1. Be a registered nurse currently licensed in New Hampshire; and
2. Possess at least a bachelor's degree with 3 years' experience in the provision of comprehensive physical rehabilitation services; and

b. A medical director of rehabilitation services who shall:

1. Be a medical doctor or doctor of osteopathic medicine licensed in the state of New Hampshire;
2. Provide services to the facility or unit and its inpatients for at least 20 hours per week; and
3. Meet one of the following requirements:
  - a. Be board-certified by either the American Board of Physical Medicine and Rehabilitation or the American Society of Neurorehabilitation; or
  - b. Have at least 2 years of training or experience in the medical management of inpatients requiring rehabilitative services.

(b) In addition to the requirements in He-P 802.17, rehabilitation hospitals shall have available the services of:

- (1) An occupational therapist licensed by the state of New Hampshire;
- (2) A physical therapist licensed by the state of New Hampshire;
- (3) A speech language pathologist licensed by the state of New Hampshire;
- (4) A respiratory therapist licensed by the state of New Hampshire;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (5) A psychologist licensed by the state of New Hampshire;
  - (6) A orthotist/prosthetist licensed by the state of New Hampshire;
  - (7) A rehabilitation nurse with education, training and experience in rehabilitation nursing and licensed by the state of New Hampshire; and
  - (8) Other nursing staff and aides educated and trained to provide services as instructed by the physician.
- (c) Rehabilitation hospitals that accommodate inpatients shall comply with the following construction requirements:
- (1) The Health Care Occupancy chapter of NFPA 101, Life Safety Code, as adopted by the commissioner of the department of safety in Saf-C 6000;
  - (2) The state building code as defined in RSA 155-A:1, IV, as amended by the building code review board pursuant to RSA 155-A:10, V; and
  - (3) The American Institute of Architects, "Guidelines for Design and Construction of Health Care Facilities," General Hospital and Rehabilitation Facilities chapters, 2006 edition.
- (d) Minimum room areas exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, or vestibules shall be 140 square feet in single-bed rooms and 125 square feet per bed in multiple-bed rooms.
- (e) A training unit shall be provided for teaching daily living activities, which includes:
- (1) A bedroom;
  - (2) A full bathroom in addition to other toilet and bathing requirements;
  - (3) A kitchen; and
  - (4) Space for training stairs.
- (f) Space requirements for the exercise area shall be designed to permit access to all equipment and be sized to accommodate equipment for physical therapy.
- (g) In addition to He-P 802.22, quality assurance, a rehabilitation hospital shall establish and maintain a comprehensive, ongoing, facility-wide quality assurance program which involves assessment of all quality assurance activities conducted in the provision of its health care and rehabilitation program and services at all levels which includes no less than:
- (1) Assessment of rehabilitation outcomes using measures currently adopted by CMS for rehabilitation hospitals; and
  - (2) A mechanism to assure the utilization of systematic data collection based on valid samples of the total patient population to measure performance and patient results, and to make recommendations to physicians and centers of needed changes.
- (h) Rehabilitation hospitals shall be exempt from He-P 802.31.

Source. #9580, eff 10-24-09

He-P 802.35 Freestanding Hospital Emergency Facility.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(a) A freestanding hospital emergency facility, as defined in He-P 802.03(af), shall be governed by the same regulations as a general hospital with the following additions:

(1) Each FHEF shall be owned and operated by a licensed parent general hospital, that participates in Medicare; and

(2) Shall document how the needs of patients will be met during hours when the FHEF is not in operation.

(b) Each FHEF shall have a full time administrator who:

(1) Meets the requirements for an administrator as defined in He-P 802.16(b)(1)-(2); and

(2) Shall be responsible to the parent hospital administrator or governing body for the daily management and operation of the hospital which shall act as liaison to the parent hospital for the patients and staff of the FHEF, in addition to those responsibilities defined in He-P 802.16(b)(3)-(9).

(c) The FHEF medical staff shall be members of the parent hospital in accordance with the parent hospital by-laws.

(d) The FHEF shall have a medical director of emergency services.

(e) The medical director of emergency services shall meet the requirements set forth in He-P 802.31(a) and (b).

(f) The director of nursing services shall, in lieu of the requirements in He-P 802.16(e) and (f):

(1) Be part of the parent hospital's single organized nursing services;

(2) Be at least a registered nurse currently licensed in New Hampshire;

(3) Have a bachelor's degree in nursing or related field; and

(4) Hold a current certificate in advanced cardiac life support from the American Heart Association and be an emergency nurse certified by the Board of Certification for Emergency Nursing.

(g) Each FHEF shall provide the services disclosed under He-P 802.18(a).

(h) An existing parent hospital shall be responsible for providing information required in He-P 802.18(b)(1)-(5) as applicable.

(i) The FHEF shall offer comprehensive emergency care at least 16 hours a day unless transportation time to a fully staffed hospital emergency center is greater than 30 minutes, in which case the FHEF shall be open 24 hours a day.

(j) The FHEF shall have at least one physician experienced in emergency care present in the emergency care area or able to be present within 5 minutes during the entire hours of operation.

(k) Emergency service policies and procedures regarding assessment and treatment by physicians and other staff shall be developed by the parent hospital and followed by the FHEF.

(l) The parent hospital's procedure to handle suspected or alleged cases of child or adult abuse or neglect and emergency service shall be utilized by the FHEF and the staff shall be trained in this procedure.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(m) Patients who require hospital admission shall be evaluated and stabilized prior to transfer to the parent hospital or hospital of the patient's choice.

(n) Patients who are treated and released from the FHEF shall be discharged and treated in accordance with He-P 802.18(g).

(o) A medical record shall be maintained and kept active for each patient admitted to the freestanding hospital emergency facility and shall be subject to all rules under He-P 802.19, and in the event of transfer to a hospital, copies of the record of the medical assessment and notes about treatments given shall be transferred with the patient while the original record shall be maintained in the FHEF.

(p) An emergency laboratory shall be available to the FHEF during all hours of operation.

Source. #9580, eff 10-24-09

APPENDIX

Rule	Specific State or Federal Statutes the Rule Implements
He-P 802.01 – He-P 802.03	RSA 151:9,I(a)(b)
He-P 802.04 – He-P 802.07	RSA 151:2,I and II and RSA 151:9,I
He-P 802.08	RSA 151:9,I(a)
He-P 802.09	RSA 151:9,I(e) and RSA 151:6-a
He-P 802.10	RSA 151:9,I(a) and (b)
He-P 802.11	RSA 151:9,I(e) and RSA 151:6
He-P 802.12	RSA 151:9,I(f)(g)(l)(m)
He-P 802.13	RSA 151:9,I(f)(h)(l)
He-P 802.14 – He-P 802.35	RSA 151:9,I(a)