

CHAPTER He-P 800 RESIDENTIAL CARE AND HEALTH FACILITY RULES

Statutory Authority: RSA 151:9

PART He-P 816 EDUCATIONAL HEALTH CENTERS

He-P 816.01 Purpose. The purpose of this part is to set forth the licensing requirements for all educational health centers licensed pursuant to RSA 151:2, I(a).

Source. #5516, eff 11-25-92; ss by #5984, eff 2-4-95; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #9193, eff 6-26-08

He-P 816.02 Scope. This part shall apply to any individual, agency, partnership, corporation, association or legal entity other than a governmental unit operating an educational health center, except:

- (a) All facilities listed in RSA 151:2, II(a)-(g);
- (b) All entities which are owned or operated by the state of New Hampshire, pursuant to RSA 151:2, II(h); and
- (c) All clinics whose sole source of funding for services is from a contract with the department of health and human services.

Source. #5516, eff 11-25-92; amd by #5984, eff 2-4-95; amd by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99; paragraph (d)(2) EXPIRED: 2-4-03

New. #9193, eff 6-26-08

He-P 816.03 Definitions.

- (a) "Abuse" means "emotional abuse," "sexual abuse" or "physical abuse" as defined in this section.
- (b) "Academic program" means a course of study, offered by the licensee, in subjects such as English, social studies, the arts, mathematics, language and science.
- (c) "Administer" means "administer" as defined by RSA 318:1, I, namely "an act whereby a single dose of a drug is instilled into the body of, applied to the body of, or otherwise given to a person for immediate consumption or use."
- (d) "Administrative remedy" means a corrective action imposed upon a licensee in response to non-compliance with RSA 151 and He-P 816.
- (e) "Administrator" means the licensee or individual appointed by the licensee to be responsible for all aspects of the daily operation of the licensed premises.
- (f) "Admission" means accepted by a licensee for the provision of services to a student.
- (g) "Applicant" means an individual, agency, partnership, corporation, government entity, association, or other legal entity seeking a license to operate an educational health center pursuant to RSA 151:2, I(a).
- (h) "Chemical restraint" means any medication prescribed to control a participant's behavior or emotional state without a supporting diagnosis or for the convenience of program staff.

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(i) “Change of ownership” means the transfer in the controlling interest of an established educational health center to any individual, agency, partnership, corporation, government entity, association or other legal entity.

(j) “Continuing education” means an educational program which is designed to increase the knowledge, skills, and overall effectiveness of personnel.

(k) “Commissioner” means the commissioner of the New Hampshire department of health and human services or his or her designee.

(l) “Days” means calendar days unless otherwise specified in the rule.

(m) “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 816.

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

(o) “Direct care personnel” means any person providing hands on care or services to a client.

(p) “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.

(q) “Educational health center (EHC)” means a facility that provides health care services to students of an educational institution, including but not limited to, private schools and colleges.

(r) “Educational institution” means an established institution, other than an institution operated by a government entity, whose purpose is to impart knowledge or skills.

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

(t) “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 a person.

(u) “Exploitation” means the illegal use of a 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 person through the use of undue influence, harassment, duress, deception, or fraud.

(v) “Guardian” means the parent of a student under the age of 18 or a person appointed under RSA 463.

(w) “Guideline” means a written statement that specifies the assessment and treatment to be provided to a student of the EHC for a specific medical condition.

(x) “Infectious waste” means those items specified by Env-Sw 103.28 and regulated by Env-Sw 904.

(y) “Inspection” means the process followed by the department to determine an applicant’s or a licensee’s compliance with RSA 151 and He-P 816 or to respond to allegations of non-compliance with RSA 151 or He-P 816.

(z) “License” means the document issued to an applicant or licensee of an EHC which authorizes operation of an EHC in accordance with RSA 151 and He-P 816, and includes the name of the licensee, the name of the business, the physical address, the license category, the effective date and license number.

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(aa) "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 EHC is licensed for.

(ab) "Licensed practitioner" means a:

- (1) Medical doctor;
- (2) Physician's assistant;
- (3) Advanced registered nurse practitioner (ARNP);
- (4) Doctor of osteopathy; or
- (5) Doctor of naturopathic medicine.

(ac) "Licensed premises" means the facility that comprises the physical location the department has approved for the licensee to conduct operations in accordance with its license.

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

(ae) "Licensing classification" means the specific category of services authorized by a license.

(af) "Mechanical restraint" means locked, secured or alarmed EHCs or units within an EHC, or anklets, bracelets or similar devices that cause a door to automatically lock when approached, thereby preventing a participant from freely exiting the EHC or unit within.

(ag) "Medical director" means a physician licensed in New Hampshire in accordance with RSA 329, or an advanced registered nurse practitioner licensed in accordance with RSA 326-B, who is responsible for overseeing the quality of medical care and services at the EHC.

(ah) "Medication" means a substance available with or without a prescription, which is used as a curative or remedial substance.

(ai) "Neglect" means an act or omission that 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 a student.

(aj) "Nurse" means a person licensed in accordance with RSA 326-B as either an advanced registered nurse practitioner (ARNP), registered nurse (RN) or a licensed practical nurse (LPN).

(ak) "Orders" means prescriptions, instructions for treatments, special diets or therapies given by a licensed practitioner, or other individual authorized by law.

(al) "Patient rights" means the privileges and responsibilities possessed by each student as established in RSA 151:21.

(am) "Personnel" means individual(s), either paid or volunteer, who provide direct or indirect care or services, or both, to a student(s).

(an) "Physical abuse" means the use of physical force, which results or could result in physical injury to a person.

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(ao) “Physical restraint” means the use of hands-on or other physically applied technique to physically limit the participant’s freedom of movement, which includes but is not limited to forced escorts, holding, prone restraints or other containment techniques.

(ap) “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.

(aq) “Pro re nata (PRN) medication” means medication taken as circumstances may require.

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

(as) “Sexual abuse” means contact or interaction of a sexual nature involving a student without his or her consent.

(at) “Student” means any person enrolled at the educational facility, or any faculty, staff, or visitor of the educational facility, who is admitted to or in any way receiving care, services or both from an EHC licensed in accordance with RSA 151 and He-P 816.

(au) “Student record” means the documentation of all care and services, which includes all documentation required by RSA 151, He-P 816 and any other federal and state requirements.

(av) “Unusual incident” means an occurrence of any of the following while the student is either in the EHC or in the care of EHC personnel:

- (1) The unanticipated death of the student; or
- (2) A negative outcome, an accident, or other circumstance that has resulted in an injury or harm that requires examination or treatment by a licensed practitioner.

Source. #5516, eff 11-25-92; ss by #5984, eff 2-4-95; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #9193, eff 6-26-08

He-P 816.04 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 Care 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 EHC;
- (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

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- c. "Certificate of Trade Name," if a sole proprietorship;
- (4) 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";
- (5) A resume identifying the name and qualifications of the EHC administrator;
- (6) Copies of applicable licenses for the EHC administrator;
- (7) 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:
 - 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 Saf-C 6000, the state fire code, as adopted by the commissioner of the department of safety, and local fire ordinances applicable for a health care facility; or
 - 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;
- (8) Documentation that the water supply has been tested in accordance with RSA 485 and Env-Ws 313.01 and 314.01, or documentation that the EHC is on a municipal water system as defined in Env-Ws 302.45;
- (9) A written disclosure from the applicant, including the licensee, administrator, and medical director, as applicable, containing a list of any:
 - a. Convictions in this or any other state;
 - b. Adjudications of juvenile delinquency;
 - c. Permanent restraining or protective orders;
 - d. Findings by the department or any other administrative agency in this or any other state for assault, fraud, abuse or exploitation; and
 - e. An explanation of the circumstances surrounding the disclosed matters described in a. through d. above; and
- (10) The results of a criminal records check from the NH department of safety for the applicant, licensee, administrator and medical director as applicable.

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(b) Information disclosed regarding adjudication of juvenile delinquency, as required by (a)(9)b. above, shall be confidential and shall not be released except in a proceeding involving the question of licensure, such as 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. #5516, eff 11-25-92; amd by #5984, eff 2-4-95; amd by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99; paragraph (a)(3) EXPIRED: 2-4-03

New. #9193, eff 6-26-08

He-P 816.05 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 816.04(a) have been received.

(b) If an application does not contain all of the items required by He-P 816.04(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) The department shall deny a licensing request in accordance with He-P 816.13(b) after reviewing the information in He-P 816.04(a)(9) and (10) above if, after review, it determines that the applicant, licensee, administrator or medical director, as applicable:

(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 students.

(f) An inspection shall be completed in accordance with He-P 816.09 prior to the issuance of a license.

(g) 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 816.

(h) All licenses issued in accordance with RSA 151 shall be non-transferable by person or location.

Source. #5516, eff 11-25-92; ss by #5984, eff 2-4-95; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #9193, eff 6-26-08

He-P 816.06 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 816.04(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 816.04(a)(1), (4), and (9);

(2) The current license number;

(3) A request for renewal of any existing waiver previously granted by the department, in accordance with He-P 816.10(f), if applicable; and

(4) A statement identifying any variances applied for or granted by the state fire marshal, in accordance with Saf-C 6005.03–6005.04.

(d) In addition to (c) above, 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, or documentation that the EHC is on a municipal water system as defined in Env-Ws 302.45.

(e) Following an inspection, as described in He-P 816.09, a license shall be renewed if the department determines that the licensee:

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

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

(3) Is found to be in compliance with RSA 151 and He-P 816 at the renewal inspection.

(f) Any licensee who does not submit a complete application for renewal prior to the expiration of an existing license shall be required to submit an application for initial license pursuant to He-P 816.04.

(g) If a licensee chooses to cease the operation of the EHC, the licensee shall submit written notification to the department at least 30 days in advance.

(h) Prior to issuing a renewal license the department shall review any of the information submitted in accordance with He-P 816.04(a)(9) above and shall deny a license renewal in accordance with He-P 816.05(e).

Source. #5516, eff 11-25-92; ss by #5984, eff 2-4-95; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #9193, eff 6-26-08

He-P 816.07 EHC Construction, Modifications or Renovations.

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

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- (1) A new building;
- (2) Additions to the building; and
- (3) Renovations or alterations that:
 - a. Involve more than 15% of the square footage of the premise;
 - b. Involve any student area;
 - c. Require approval from local or state authorities; and
 - d. Effect compliance with the health and safety, fire or building codes, including but not limited to, fire suppression, detections systems and means of egress.

(b) The department shall review plans for construction, renovation or structural alterations of an EHC for compliance with all applicable sections of RSA 151 and He-P 816 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 his or her own risk.

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

(e) Any licensee or applicant constructing, renovating, or structurally altering a building shall comply with the following:

- (1) The state fire code, Saf-C 6000, 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) The completed building shall be subject to an inspection pursuant to He-P 816.09 prior to its use.

Source. #5516, eff 11-25-92; ss by #5984, eff 2-4-95; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #9193, eff 6-26-08

He-P 816.08 EHC Requirements for Organizational Changes.

(a) The EHC 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; or
- (5) The number of beds authorized under the current license.

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

(c) The EHC 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 beds authorized under the current license.

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

(e) The EHC shall notify the department in writing as soon as possible prior to a change in administrator or medical director and provide the department with the following:

- (1) The information specified in He-P 816.04(a)(9) and (a)(10);
- (2) A resume identifying the name and qualifications of the new administrator or medical director; and
- (3) Copies of applicable licenses for the new administrator or medical director.

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

- (1) Does not have a history of any of the criteria identified in He-P 816.05(e); and
- (2) Meets the qualifications for the position, as specified in He-P 816.15(a) for an administrator and He-P 816.15(c) for a medical director.

(g) If the department determines that the new administrator or medical director does not meet the requirements of He-P 816.15 for his or her position, it shall so notify the EHC in writing so that a waiver can be sought or the program can hire a qualified candidate.

(h) When there is to be a change in the services provided, the EHC 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 EHC'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;
- (3) An change in the number of beds authorized under the current license; or

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- (4) A change in licensing classification.
- (k) A new license and license certificate shall be issued for a change in ownership or physical location.
- (l) A revised license and license certificate shall be issued for a change in the EHC's name.
- (m) A revised license certificate shall be issued for any of the following:
 - (1) A change in administrator or medical director;
 - (2) A change in the number of beds authorized under the current license;
 - (3) A change in the scope of services provided;
 - (4) A change in address without a change in physical location; or
 - (5) When a waiver has been granted.
- (n) Licenses issued under (k) 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 facility changing its ownership, physical location, address or name.

Source. #5516, eff 11-25-92; ss by #5984, eff 2-4-95; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #9193, eff 6-26-08

He-P 816.09 Inspections.

- (a) For the purpose of determining compliance with RSA 151 and He-P 816, 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 EHC; and
 - (3) Any records required by RSA 151 and He-P 816.
- (b) The department shall conduct an inspection, including a clinical and a life safety inspection, to determine full compliance with RSA 151 and He-P 816 prior to:
 - (1) The issuance of an initial license;
 - (2) A change in ownership except as allowed under He-P 816.08(j)(1);
 - (3) A change in the physical location of the EHC;
 - (4) A change in the licensing classification, as defined by He-P 816.03(ae);
 - (5) A change in the number of beds;
 - (6) Occupation of space after construction, renovations or alterations; or
 - (7) The renewal of a license.

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(c) In addition to (b) above the department shall conduct an inspection 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 confirming the implementation of a POC.

(d) A notice of deficiencies shall be issued when, as a result of an inspection, the department determines that the EHC is in violation of any of the provisions of He-P 816 or RSA 151.

(e) If deficiencies were cited, the licensee shall submit a written POC, in accordance with He-P 816.12(c).

Source. #5516, eff 11-25-92; ss by #5984, eff 2-4-95; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #9193, eff 6-26-08

He-P 816.10 Waivers.

(a) Applicants or licensees seeking waivers of specific rules in He-P 816 shall submit a written request for a waiver to the commissioner that includes:

- (1) The specific reference to the rule for which a waiver is being sought;
- (2) A full explanation of why a waiver is necessary and how a waiver is justified; and
- (3) The period of time for which the waiver is sought.

(b) A waiver shall not exceed 12 months or the current license expiration date.

(c) A request for waiver shall be granted if the commissioner determines that the terms of the waiver proposed by the applicant or licensee:

- (1) Meets the objective or intent of the rule;
- (2) Does not negatively impact public health or the health or safety of the students; and
- (3) Does not negatively affect the quality of student services.

(d) The licensee's subsequent compliance with the terms of the waiver as approved 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 816.06(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 license certificate.

(g) The request to renew a waiver shall be subject to (b) through (f) above.

Source. #5516, eff 11-25-92; ss by #5984, eff 2-4-95; ss by #6895, INTERIM, eff 11-26-98, EXPIRED: 3-26-99

New. #9193, eff 6-26-08

He-P 816.11 Complaints.

- (a) The department shall investigate complaints that allege a violation of RSA 151 or He-P 816.
- (b) When practicable the complaint shall be in writing and contain the following information:
 - (1) The name and address of the EHC;
 - (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 816.
- (c) 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 suspected 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 does not violate any statutes or rules, the department shall so notify the 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 816.12(c).
- (f) If the investigations results in a determination that the EHC is operating without a license, the owner or person responsible shall be allowed 7 days from the date of receipt of the notice required by (c)(1) above to respond to any finding that they are operating without a license or submit a completed application for a license.
- (g) If the owner of an EHC providing services without a license does not comply with (f) 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 816; and
 - (2) Provide notice stating that the individual has the right to appeal the warning in accordance with RSA 151:7-a, III.
- (h) Any person or entity who fails to comply after receiving a warning as described in (c)(1) above, shall be subject to an action by the department for injunctive relief under RSA 151:17.
- (i) 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 816 or other applicable laws.
- (j) 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;
 - (3) When a court of competent jurisdiction orders the department to release such information; or
 - (4) In connection with any administrative or judicial proceedings relative to the licensee.

Source. #9193, eff 6-26-08

He-P 816.12 Administrative Remedies.

(a) The department shall impose administrative remedies for violations of RSA 151, He-P 816 or other applicable licensing rules, including:

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

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

- (1) Identifies each deficiency;
- (2) Identifies the specific remedy that has been proposed, including the amount of the fine that has been imposed, if applicable; and
- (3) Provides the licensee with the following information:
 - a. In the case of administrative fines, the right to a hearing in accordance with RSA 541-A and He-C 200 prior to payment of the fine; and
 - b. The automatic reduction of a fine by 25% if:
 1. The fine is paid within 10 days of the date on the written notice from the department;
 2. The unlicensed individual, applicant or licensee submits a written statement waiving the right to an administrative hearing; and
 3. 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 written POC explaining:
 - 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, unless the licensee requests, either verbally or in writing, and the department agrees, to extend that deadline, based on the following criteria:

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- a. The licensee demonstrates that he or she has made a good faith effort to develop and submit the POC within the 21 day period but has been unable to do so; and
 - b. The department determines that the health, safety or well-being of a student will not be jeopardized as a result of granting the extension;
- (3) The department shall review and accept each POC that:
- a. Achieves compliance with RSA 151 and He-P 816;
 - b. Addresses all deficiencies and deficient practices as cited in the inspection report;
 - c. Prevents a new violation of RSA 151 or He-P 816 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:
- a. Within the 14 day period, an extension is requested, either verbally or in writing; and
 - b. The department grants the extension, based on the following criteria:
 1. 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
 2. The department determines that the health, safety or well being of a student will not be jeopardized as a result of granting the extension;
- (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 (g)(12) 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

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- (11) If the 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)(1) and (2) above; and
 - b. Issued a directed POC in accordance with (d) below and a fine in accordance with (g)(10) below.
- (d) The department shall develop and impose a directed POC that specifies corrective actions for the applicant or licensee to implement when:
- (1) As a result of an inspection or investigation, deficiencies were identified that require immediate corrective action to protect the health and safety of the students and personnel;
 - (2) A revised POC is not submitted within 14 days of the written notification from the department or such later date as is applicable if an extension was granted by 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) Impose a fine;
 - (2) Deny the application for a renewal of a license; or
 - (3) Suspend or revoke the license in accordance with He-P 816.13.
- (f) The department shall impose fines on unlicensed individuals, applicants or licensees 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 operations, 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 a failure to comply with the directives of a warning issued by the department in violation of RSA 151:7-a and He-P 816.11(i), the fine for an unlicensed provider or a licensee shall be \$500.00;
 - (4) For a failure to submit a renewal application for a license prior to the expiration date, in violation of He-P 816.06(b), the fine for a license shall be \$100.00;
 - (5) For a failure to notify the department prior to a change of ownership, in violation of He-P 816.08(a)(1), the fine for a licensee shall be \$500.00;
 - (6) For a failure to notify the department prior to a change in the physical location, in violation of He-P 816.08(a)(2), the fine for a licensee shall be \$500.00;
 - (7) For a failure to allow access by the department to the EHC's premises in violation of He-P 816.09(a)(1) and (2), the fine for an applicant, individual or licensee shall be \$2000.00;
 - (8) For a failure to provide to the department any records maintained by the licensee and required by He-P 816.09(a)(3), the fine for a licenses shall be \$2000.00;

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- (9) 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 816.12(c)(2) and (6), the fine for a licensee shall be \$100.00 unless an extension has been granted by the department;
- (10) For a failure to implement any POC that has been accepted or issued by the department, in violation of He-P 816.12(c)(11), the fine for a licensee shall be \$1000.00;
- (11) For a failure to establish, implement or comply with licensee policies, as required by He-P 816.14(b), (d) and (i)(2), the fine for a licensee shall be \$500.00;
- (12) For a failure to provide services or programs required by the licensing classification and specified by He-P 816.14(k), the fine for a licensee shall be \$500.00;
- (13) For exceeding the licensed capacity, if applicable, in violation of He-P 816.14(m), the fine for a licensee shall be \$500.00 per day multiplied by the number of unauthorized students present;
- (14) For furnishing or making false or misleading statements or reports to the department, in violation of He-P 816.14(f), the fine shall be \$500.00 per offense;
- (15) For a failure to meet the needs of the student, in violation of He-P 816.14(i)(3), the fine for a licensee shall be \$500.00;
- (16) For employing an administrator or other personnel who do not meet the qualifications for the position, in violation of He-P 816.15(a), (b), (c) and (e) and He-P 816.18(h) and (i), the fine for a licensee shall be \$500.00;
- (17) For failure to cooperate with the inspection or investigation conducted by the department, in violation of He-P 816.09(a), the fines shall be \$2000.00;
- (18) When an inspection determines that there is a violation of RSA 151 or He-P 816 for which a fine was previously imposed, 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 original fine, but not to exceed \$2000.00; or
 - 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 original fine, but not to exceed \$2000.00; and
- (19) Each day that the individual or licensee continues to be in violation of the provisions of RSA 151 or He-P 816 shall constitute a separate violation and shall be fined in accordance with He-P 816.12.
- (g) Payment of any imposed fine to the department shall meet the following requirements:
- (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.
- (h) 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.

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(i) 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.

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

(k) 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. #9193, eff 6-26-08, ss by #9565, eff 10-16-09

He-P 816.13 Enforcement Actions and Hearings.

(a) Prior to 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 an administrative hearing in accordance with RSA 151:8 or RSA 541-A:30, III, as applicable.

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

- (1) An applicant or a licensee violated RSA 151 or He-P 816 in a manner which poses a risk of harm to a student'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 816.04;
- (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) A licensee failed to fully implement or continue to implement a POC that has been accepted or imposed by the department in accordance with He-P 816.12(c) and (d);
- (7) A licensee has submitted a POC that has not been accepted by the department in accordance with He-P 816.12(c)(5) and has not submitted a revised POC as required by He-P 816.12(c)(6);
- (8) A licensee is cited a third time under RSA 151 or He-P 816 for the same violations within the last 5 inspections;
- (9) A licensee has had a license revoked and submits an application during the 5-year prohibition period specified in (h) below;

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(10) Upon inspection, the applicant's premise is not in full compliance with RSA 151 or He-P 816;

(11) The department makes a determination that one or more of the factors in He-P 816.05(e) is true; or

(12) The applicant or licensee fails to employ a qualified administrator or medical director.

(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 and the cessation of operations when it finds that the health, safety or well being of students is in jeopardy and emergency action is required 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 816 is achieved.

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

(h) When an EHC's license has been denied or revoked, if the enforcement action specifically pertained to his or her role in the program, the applicant, licensee, administrator or medical director shall not be eligible to reapply for a license, or be employed as an administrator or medical director for at least 5 years from:

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

(2) The date an order is issued upholding the action of the department, if a request for an administrative hearing was made and a hearing was held.

(i) Notwithstanding (h) 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 816.

(j) RSA 541-A shall govern further appeals of department decisions under this section.

(k) No ongoing enforcement action shall preclude the imposition of any remedy available to the department under RSA 151, RSA 541-A or He-P 816.

Source. #9193, eff 6-26-08

He-P 816.14 Duties and Responsibilities of All Licensees.

(a) The licensee shall comply with all federal, state and local laws, rules, codes and ordinances, as applicable.

(b) In accordance with RSA 151:20, the licensee shall have a written policy setting forth the rights and responsibilities of students receiving services at the EHC, as well as written procedures to implement its policy to ensure that the rights set forth in RSA 151:21, "Patients' Bill of Rights" are upheld.

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- (c) The licensee shall define, in writing, the scope and type of services to be provided at the EHC.
- (d) The licensee shall develop and implement written policies and procedures governing the operation and all services provided at the EHC and for:
 - (1) Reviewing the policies and procedures annually; and
 - (2) Revising them as needed.
- (e) The licensee shall assess and monitor the quality of care and services it provides to students on an ongoing basis.
- (f) The licensee or personnel shall not falsify any documentation or provide false or misleading information to the department.
- (g) The licensee shall not advertise or otherwise represent the EHC as having residential care or health care programs or services for which it is not licensed 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) Manage and operate the EHC;
 - (2) Meet the needs of the students during the hours that the students are in the care of the EHC;
 - (3) Initiate action to maintain the EHC 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;
 - (4) Establish, in writing, a chain of command that sets forth the line of authority for the operation of the EHC;
 - (5) Appoint an onsite administrator;
 - (6) Appoint a director of nursing;
 - (7) Appoint a medical director;
 - (8) Verify the qualifications of all personnel;
 - (9) Provide sufficient numbers of personnel who are present in the EHC and are qualified to meet the needs of students during all hours of operation;
 - (10) Provide the EHC with sufficient supplies, equipment and lighting to ensure that the needs of students are met;
 - (11) Implement any POC that has been accepted or issued by the department; and
 - (12) Require that all personnel follow the orders of the licensed practitioner for each student and encourage the students to follow the licensed practitioner's orders.
- (j) The licensee shall consider all students to be competent and capable of making health care decisions unless the student is under 18 years of age.
- (k) The licensee shall only admit or treat a student whose needs can be met by the EHC.

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(l) If the licensee has a student whose needs cannot be met by the programs and services offered at the EHC, the licensee shall transfer the student to a hospital or other appropriately licensed facility.

(m) The licensee shall not occupy more beds or exceed the maximum number of students to be cared for each day as authorized by NFPA 101 as adopted by the commissioner of the department of safety under Saf-C 6000 and identified on the license certificate issued by the department.

(n) If the licensee accepts a student 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 and personnel training for the care of the students, 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).

(o) The licensee shall report all positive tuberculosis (TB) 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.

(p) 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 issued in accordance with RSA 151:2;

(2) All inspection reports for the last 12 months in accordance with He-P 816.09(d) and He-P 816.11(c);

(3) A copy of the patients' bill of rights specified by RSA 151:21;

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

(5) A copy of the licensee's complaint procedure as required by RSA 151:20, II;

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

(7) The EHC's hours of operation.

(q) Licensees shall:

(1) Within 24 hours contact the department by telephone, fax or e-mail to report an unusual incident, as defined in He-P 816.03(av), and provide the following information:

a. The EHC name;

b. A description of the incident, including identification of injuries, if applicable;

c. The name of the licensee(s) or personnel involved in, witnessing or responding to the unusual incident;

d. The name of the student(s) or person(s) involved in or witnessing the unusual incident;

e. The date and time of the unusual incident;

f. The action taken in direct response to the unusual incident, including any follow-up;

g. If medical intervention was required, by whom and the date and time;

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- h. Whether the emergency contact or guardian, if any, was notified;
- i. The signature of the person reporting the unusual incident; and
- j. The date and time the student's primary care licensed practitioner was notified, if applicable;

(2) Provide the information required by (1) above in writing within 72 hours of the unusual incident if the initial contact was made by telephone or if additional information becomes available subsequent to the time the initial contact was made;

(3) Contact the department immediately by telephone, fax or e-mail to report the information required by (1) above to report the death of any student or the death of any student who dies within 10 days of an unusual incident as defined by He-P 816.03(av)(2);

(4) Provide the information required by (3) above in writing within 72 hours of the death of any student or the death of any student who dies within 10 days of an unusual incident as defined by He-P 816.03(av)(2) if the initial contact was made by telephone or if additional information becomes available subsequent to the time the initial contact was made; and

(5) Submit any further information requested by the department.

(r) The licensee shall admit and allow any department representative to inspect the EHC and all programs and services that are being provided at any time for the purpose of determining compliance with RSA 151 and He-P 816, as authorized by RSA 151:6 and RSA 151:6-a.

(s) Applicants, licensees and personnel shall cooperate with the department during all departmental inspections and investigations authorized under RSA 151 and He-P 816, including allowing representatives of the department to:

- (1) Enter and complete an inspection of the premises;
- (2) Review and reproduce any records, forms or reports which are required to be maintained or made available to the department; and
- (3) Interview staff and students of the EHC.

(t) The licensee shall, upon request, provide a student or their guardian, if applicable, with a copy of his or her student record pursuant to the provisions of RSA 151:21, X.

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

(v) Any licensee that maintains electronic records shall develop a system with written policies and procedures to protect the privacy of students 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 students and personnel; and
- (3) Systems to prevent tampering with information pertaining to students and personnel.

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

(x) The licensee shall provide housekeeping and maintenance services, as needed to protect students, personnel, and the public.

(y) The EHC shall comply with all federal, state and local health, building, fire and zoning laws, rules and ordinances.

(z) The water used in the EHC shall be suitable for human consumption, pursuant to Env-Ws 315 and Env-Ws 316.

Source. #9193, eff 6-26-09

He-P 816.15 Required Health Care Services.

(a) The licensee shall appoint an administrator who:

- (1) Has a bachelor's degree in a health-related field, or is a registered nurse;
- (2) Is responsible for the day to day operations of the EHC;
- (3) Shall, directly or through delegation, notify the student's contact person or guardian, if any, and primary care licensed practitioner in the event of any unusual incident involving the student;
- (4) Shall make available and assure delivery of the following required services:
 - a. Counseling, including psychological services;
 - b. Education on communicable diseases, chemical dependency and promotion of good health;
 - c. Medical follow up; and
 - d. Nursing assessment and intervention; and
- (5) Designates, in writing, an alternate administrator who shall assume the responsibilities of the administrator in his or her absence.

(b) The administrator described in (a) above shall be permitted to hold more than one position at the EHC if the individual meets the qualifications of the positions.

(c) The licensee shall appoint a medical director who meets one of the following qualifications:

- (1) Is a physician currently licensed in the state of New Hampshire; or
- (2) Is an advanced registered nurse practitioner currently licensed in the state of New Hampshire.

(d) The medical director in (c) above shall:

- (1) Participate in the development of and approve all policies and procedures, standing orders and guidelines for student care;
- (2) Participate as a member of the quality improvement committee;
- (3) Provide medical direction and consultation to the professional staff; and
- (4) Stock medications and physician's samples as authorized by his or her practice act.

(e) The licensee shall appoint a director of nursing who:

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- (1) Is an RN or an ARNP licensed to practice in the state of New Hampshire in accordance with RSA 326-B;
- (2) Is employed full time when the academic program is in session;
- (3) Shall be permitted to hold more than one position at the EHC if the individual meets the qualifications of the positions; and
- (4) Shall:
 - a. Make available and assure delivery of nursing care and services;
 - b. Provide nursing direction and supervision to the direct care staff;
 - c. Provide coverage by a licensed nurse, except that if it is an LPN, an RN shall be available for consultation and supervision via telephone;
 - d. Notify the administrator in the event that there is insufficient nursing staff to meet the needs of the health center's students;
 - e. Participate in the development of the health center's nursing policies and guidelines; and
 - f. Establish a system for referrals for any services needed by the student but are not available at the EHC.
- (f) The licensee shall provide nursing and direct care personnel to meet the needs of students.
- (g) The licensee shall provide counseling services to meet the needs of the students, which may be provided directly by the licensee or by contract.
- (h) The licensee shall provide the following:
 - (1) Nursing care, in accordance with (e)(4)a. above and as authorized by RSA 326, including, but not limited to:
 - a. Medication administration;
 - b. Wound care;
 - c. Initial and ongoing assessments of the client's pain level, vital signs, physical, cognitive and behavioral status; and
 - d. Assessment as to how the student is adapting psychologically to their social environment if a student presents with this type of problem;
 - (2) Nutritional monitoring;
 - (3) Case management; and
 - (4) Referrals to community service agencies when necessary.
- (i) If the EHC has licensed beds, the licensee shall have:
 - (1) A kitchen within the EHC if meals are prepared in the EHC; or
 - (2) A refrigerator and microwave oven if meals are prepared off site.

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(j) In addition to (i) above, the licensee shall provide dietary services appropriate to meet the needs of students.

Source. #9193, eff 6-26-08; ss by #9565, eff 10-16-09

He-P 816.16 Student Services.

(a) At the time of admission, the EHC shall:

(1) Provide, in writing, to the student, or guardian if applicable, the EHC's policies on student rights and responsibilities and its complaint procedure and rules;

(2) Obtain written confirmation acknowledging receipt and understanding of the policies in (a)(1) above;

(3) Collect and record the following information:

a. Student's name, home address, home telephone number and date of birth;

b. Name, address and telephone number of an emergency contact; and

c. Student's insurance information;

(4) Confirm, by reviewing received documentation, that the student has had a physical examination prior to attending classes that includes:

a. Diagnosis, if applicable;

b. Medical history;

c. Medical findings, including the presence or absence of communicable diseases;

d. Identification of all current medications;

e. Allergies;

f. Dietary needs, if applicable; and

g. For students in grade K-12, a completed immunization record, as required by He-P 301;

(5) Require that within 90 days of admission to the educational institution, the student shall be in compliance with He-P 301 relative to immunizations; and

(6) Require that any student from an area designated as a high risk area by the Centers for Disease Control (CDC) shall have a TB test, Mantoux method, or other method approved by the CDC, prior to the date of admission.

(b) Any student with a positive TB test shall be tracked as directed by the department's bureau of disease control.

(c) An RN shall be on call and available by telephone, radio or pager to respond within 15 minutes to the EHC during the EHC's hours of operation.

(d) When an RN has assessed a student and determined that the student needs periodic medical care, nursing observation or monitoring, the RN shall:

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- (1) Document the findings of a nursing assessment, including, but not limited to, the following, as applicable:
 - a. Obtaining a history regarding what brought the student to the EHC;
 - b. An assessment of the student's pain level;
 - c. The student's vital signs;
 - d. The student's physical, cognitive and behavioral status; and
 - e. How the student is adapting psychologically to their social environment; and
 - (2) Determine if the student should remain in his or her dormitory room, be monitored at the EHC, or be admitted to the EHC if the EHC has licensed beds.
- (e) When an RN has assessed a student and determined that the student requires continuous nursing observation, monitoring and/or medical care, the RN shall:
- (1) Admit the student to the EHC if the EHC has licensed beds, and maintain awake nursing personnel for as long as the student requires continuous nursing observation, monitoring and/or medical care; or
 - (2) Transfer the student to a facility licensed to provide the necessary student services.
- (f) For any student that is admitted to a bed in the EHC, the RN shall complete the following written documents:
- (1) A nursing assessment, as specified in (d)(1) above;
 - (2) Daily progress notes, if applicable; and
 - (3) A discharge summary and discharge instructions, if applicable.
- (g) In the event of a medical emergency concerning a student, the nurse in charge shall promptly notify the administrator or his or her designee and the medical director of the event and document all information involving the emergency and notifications in the student record.
- (h) Physical or chemical restraints shall be prohibited except as allowed by RSA 151:21, IX.
- (i) Immediately after the use of physical or chemical restraints, the student's guardian, if any, and the department shall be notified of the use of the restraint.
- (j) The EHC shall:
- (1) Have policies and procedures on:
 - a. What type of physical or chemical restraint can be used;
 - b. When physical or chemical restraint can be used; and
 - c. What professional personnel may authorize the use of restraints; and
 - (2) Provide personnel authorized by (j)(1)c. above with education and training on the limitations and the correct use of restraints.
- (k) The use of mechanical restraints shall be prohibited.

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(l) For each student accepted for care and services at the EHC, a current and accurate record shall be maintained and include, at a minimum:

- (1) All orders from a licensed practitioner, including the date and signature of the licensed practitioner;
- (2) Results of any laboratory tests, X-rays or consultations performed at the EHC;
- (3) All admission notes;
- (4) All assessments;
- (5) All care and services provided at the EHC including the:
 - a. Date and time of the care or service;
 - b. Description of the care or service;
 - c. Daily progress notes, if applicable;
 - d. Student's response to the care and services provided; and
 - e. Signature and title of the person providing the care or service;
- (6) All medication records required by He-P 816.17(ah);
- (7) Documentation of nurse delegation, if applicable;
- (8) If services are provided at the EHC by individuals not employed by the licensee, documentation that includes the name of the agency providing the services, the date services were provided, the name of the person providing services and a brief summary of the services provided;
- (9) Documentation of unusual incidents involving the student, including the information required by He-P 816.14(q); and
- (10) Documentation of the refusal of a student to follow the prescribed orders of the licensed practitioner, including the date and time the licensed practitioner was notified of the refusal.

(m) Student records shall be safeguarded against loss, damage or unauthorized use by being stored in locked containers, cabinets, rooms or closets, except when being used by the EHC's personnel.

(n) Student records and information shall be kept confidential and only provided in accordance with law.

(o) The licensee shall develop and implement written policy and procedures that specify the method by which release of information from a student's record shall occur.

(p) Records shall be retained for a minimum of 4 years.

(q) The licensee shall arrange for storage of, and access to, student records as required by (p) above in the event the EHC ceases operation.

(r) If the EHC collects specimens for testing, it shall be licensed as a collection station in accordance with He-P 817.

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(s) If the EHC tests human specimens, it shall be licensed as a laboratory in accordance with He-P 808.

(t) Notwithstanding (r) and (s) above, the EHC may perform the following Clinical Laboratory Improvement Amendments (CLIA) waived tests, per 42 CFR Part 493.15, without having a NH state laboratory or collecting station license, required by He-P 808 and He-P 817, respectively:

- (1) Rapid strep testing;
- (2) Urine dip-stick testing;
- (3) Finger stick glucose testing; and
- (4) Rapid flu testing.

(u) A CLIA certificate of waiver shall be required by the EHC to perform the tests listed in (t) above.

Source. #9193, eff 6-26-08; ss by #9565, eff 10-16-09

He-P 816.17 Medication Services.

(a) If the licensee maintains a pharmacy on the licensed premises, it shall comply with RSA 318.

(b) All procedures for managing and distributing medication(s) shall comply with all applicable federal and state laws and rules.

(c) The licensee shall develop and implement written policies and procedures governing the management and distribution of student medications provided by the EHC.

(d) The written policies and procedures shall include, but not be limited to, the following:

- (1) How medication is provided to students;
- (2) What type of medications students are allowed to keep on their person, including number of doses;
- (3) What personnel of the educational institution, such as teachers and dorm parents, are allowed to assist students with medications when not given at the EHC;
- (4) What training such personnel who can assist students with medication will receive from EHC staff; and
- (5) How EHC staff will:
 - a. Administer medication; and
 - b. Facilitate medication delivery if a student self-administers off the premises of the EHC or is assisted by or has his or her medication administered by academic staff, in compliance with RSA 326-B.

(e) All medications shall be administered in accordance with the orders of the licensed practitioner or other individual authorized by law.

(f) EHC nursing staff shall follow their nurse practice act when administering medications or filling pill planners for students.

(g) The licensee shall have a written policy and system in place instructing how to:

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- (1) Obtain any medication ordered for immediate use at the EHC;
 - (2) Obtain any routine medications required within 24 hours for use at the EHC;
 - (3) Reorder medications for use at the EHC;
 - (4) Receive new medication orders; and
 - (5) Report any observed adverse reactions to medication and side effects, or medication errors such as incorrect medications, within 24 hours of the adverse reaction or medication error.
- (h) For each prescription medication being taken by a student, the licensee shall maintain in the student's record, one of the following:
- (1) The original written order, signed by a licensed practitioner or other individual authorized by law; or
 - (2) A copy of the original written order, signed by a licensed practitioner or other individual authorized by law.
- (i) Each prescription medication shall legibly display the following information:
- (1) The student's name;
 - (2) The medication name, strength, the prescribed dose and route of administration;
 - (3) The frequency of administration;
 - (4) The indications for usage of all PRN medications; and
 - (5) The dated signature of the ordering practitioner.
- (j) The label of all medication containers maintained in the EHC shall match the current written orders of the licensed practitioner.
- (k) Pharmaceutical samples shall be used in accordance with the licensed practitioner's written order and labeled with the student's name by the licensed practitioner, the licensee or their designee and shall be exempt from (i)(2)-(5) above.
- (l) Only a pharmacist or other licensed practitioner shall make changes to the labels on prescription medication container labels.
- (m) Any change or discontinuation of prescription medications taken at the EHC shall be pursuant to a written order from a licensed practitioner or other individual authorized by law.
- (n) When the licensed practitioner or other individual authorized by law changes the dose of a medication and the personnel of the EHC are unable to obtain a new prescription label:
- (1) The original container shall be clearly and distinctly marked, for example, with a colored sticker that does not cover the pharmacy label, in a manner consistent with the EHC's written procedure indicating that there has been a change in the medication order;
 - (2) Personnel shall cross out the previous order on the daily medication record, indicating that the dose has been changed, and write the new order in the next space available on the medication record; and

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(3) The change in dosage, without a change in prescription label as described in (1) and (2) above, shall be allowed:

- a. For a maximum of 90 days from the date of the new medication order;
- b. Until the medications in the marked container are exhausted; or
- c. In the case of PRN medication, until the expiration date on the container, whichever occurs first.

(o) Prescription medication that is not ordered, approved or labeled for a specific student, including but not limited to pharmaceutical samples, may be kept at the EHC provided that these medications are dispensed to the student only upon the order of an authorized licensed practitioner. A signed copy of the order shall be filed in the student's medical record within 3 business days following the order.

(p) The medication in (o) above shall be the responsibility of the medical director.

(q) Only a licensed nurse or other licensed health care professional shall take telephone orders for medications, treatments, and diets, if such action is within the scope of their practice act.

(r) Telephone orders specified in (q) above shall be:

- (1) Immediately transcribed and signed by the individual receiving the order; and
- (2) Counter-signed by the authorized prescriber within 30 days.

(s) All medications taken by a student at the EHC shall require written approval for its use by a licensed practitioner.

(t) The medication storage area or units shall be:

- (1) Locked and accessible only to authorized personnel;
- (2) Clean and organized with adequate lighting to ensure correct identification of each student's medication(s); and
- (3) Equipped to maintain medication at the proper temperature.

(u) All medication at the EHC shall be kept in the original containers as dispensed by the pharmacy and properly closed after each use, except as allowed by (o) above.

(v) Topical liquids, ointments, patches, creams, or powder forms of products shall be stored in such a manner as to prevent cross contamination.

(w) If controlled substances, as defined by RSA 318-B:1, VI, are stored in the EHC they shall be kept in a separately locked compartment within the locked medication storage area accessible only to authorized personnel.

(x) Except as required below, any contaminated, expired or discontinued medication shall be destroyed within 30 days of the expiration date, at the end date of a licensed practitioner's orders or if the medication becomes contaminated, whichever occurs first.

(y) If the licensee employs or contracts with a pharmacist who has been designated an agent of the board of pharmacy, then controlled medications shall be destroyed in accordance with the board of pharmacy rules Ph 707.

(z) Destruction of controlled drugs under (y) above shall:

- (1) Be accomplished in the presence of at least 2 EHC personnel; and
- (2) Be documented in the record of the student for whom the drug was prescribed.

(aa) The licensee shall develop and implement written policies and procedures regarding a system for maintaining counts of controlled drugs.

(ab) The department shall order a licensee to obtain the routine services of a consultant pharmacist for 12 months if medication deficiencies, which present a risk to the student's health and safety, are identified during any inspection.

(ac) When a student leaves the educational institution, the student or their guardian may take any current medication(s) with them.

(ad) Medication(s) may be returned to pharmacies for credit only under the provisions of Ph 704.07.

(ae) Medications left at the EHC upon the student leaving the educational institution, either permanently or for an extended absence, shall be destroyed and documented in the student's record.

(af) Students shall receive their medications in accordance with the policies of the EHC developed in accordance with (c) above

(ag) If a nurse delegates the task of medication administration to an individual not licensed to administer medications, the nurse and delegatee shall comply with the rules of medication delegation in accordance with Nur 404, as applicable, and RSA 326-B.

(ah) The licensee shall maintain a written record for each medication taken by the student at the EHC that contains the following information:

- (1) Any allergies or adverse reactions to medications;
- (2) The medication name, strength, dose, frequency and route of administration;
- (3) The date and the time the medication was taken;
- (4) The signature and identifiable initials and job title of the person administering the medication or supervising the student taking his or her medication;
- (5) For PRN medications, the reason the student required the medication and the effect of the PRN medication, if known;
- (6) Documented reason for any medication refused or omitted; and
- (7) Observed side effects and adverse reactions.

(ai) Personnel who are not otherwise licensed practitioners, and nurses who assist with observing a student self administer medication, shall complete an orientation class taught by the EHC nurse which shall include the review of the policies and procedures set forth by the EHC for medication observation.

(aj) Non-prescription stock medications may be kept at the EHC.

(ak) An emergency drug kit may be used by an EHC if the EHC:

- (1) Has a director of nursing who is an RN licensed in accordance with RSA 326-B;

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(2) Has contractual agreements with a medical director who is licensed in accordance with RSA 329 and a consultant pharmacist who is licensed in accordance with RSA 318; and

(3) Has the contents approved, in writing, by the licensee's medical director.

(al) The emergency drug kit in (ak) above shall be accessed only by the licensed nurse or licensed practitioner on duty.

(am) The licensee shall develop and implement a system for reporting to the student's primary care licensed practitioner any adverse reactions and side effects to medications, or medication errors such as incorrect medications, within 24 hours of the adverse reaction or medication error.

(an) The written documentation of the report in (am) above shall be maintained in the student's record.

(ao) The licensee shall conduct an annual review of its policies and procedures relative to medications.

Source. #9193, eff 6-26-08; ss by #9565, eff 10-16-09

He-P 816.18 Personnel.

(a) The licensee shall develop a job description for each position at the EHC containing:

(1) Duties of the position;

(2) Physical requirements of the position; and

(3) Education and experience requirements of the position.

(b) For all applicants for employment, 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; and

(3) Verify the qualifications of all applicants prior to employment.

(c) Unless a waiver is granted in accordance with He-P 816.10 and (d) below, the licensee shall not offer 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 students.

(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 students.

(e) If the information identified in (c) above regarding any employee is learned after the person is hired, the licensee shall immediately notify the department.

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(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 student.

(g) All personnel shall:

- (1) Meet the educational and physical qualifications of the position as listed in their job description;
- (2) Not 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;
- (3) Be licensed, registered or certified as required by state statute;
- (4) Receive an orientation within the first 3 days of work that includes:
 - a. The EHC's policies on rights and responsibilities and complaint procedures as required by RSA 151:20;
 - b. The duties and responsibilities of the position they were hired for;
 - c. The EHC's policies, procedures and guidelines;
 - d. The EHC's infection control program;
 - e. The EHC's fire, evacuation and emergency plans which outline the responsibilities of personnel in an emergency; and
 - f. Mandatory reporting requirements such as those found in RSA 169-C:29; and
- (5) Complete mandatory annual in-service education, which includes a review of the EHC's:
 - a. Policies and procedures on student rights and responsibilities;
 - b. Infection control program; and
 - c. Education program on fire and emergency procedures.

(h) All direct care staff shall have current certifications in adult cardio pulmonary resuscitation (CPR) equivalent to basic life support from either the American Red Cross or the American Heart Association.

(i) Prior to having contact with students, personnel shall:

- (1) Submit to the licensee the results of a physical examination or a health screening performed by a licensed nurse or a licensed practitioner and the results of a 2-step tuberculosis (TB) test, Mantoux method, or other method approved by the Centers for Disease Control, conducted not more than 12 months prior to employment;
- (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
- (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

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positive TB test, or has had direct contact or potential for occupational exposure to M. tuberculosis through shared air space with persons with infectious tuberculosis.

(j) Personnel, volunteers or independent contractors hired by the licensee who will have direct contact with students who have a history of TB or a positive skin test shall have a symptomatology screen of a TB test.

(k) All licensees using the services of independent clinical contractors at the EHC, such as psychologists, shall ensure that these personnel have:

- (1) Been oriented in accordance with (g)(4) above;
- (2) Submitted results of tuberculosis testing, either Mantoux method or blood assay, conducted not more than 12 months prior to employment;
- (3) Provided a copy of any license required by law; and
- (4) A written agreement that describes the services that will be provided.

(l) All personnel shall follow the orders of the licensed practitioner for each student and shall encourage students to follow the practitioner's orders.

(m) Current, separate and complete personnel files shall be maintained and stored in a secure and confidential manner at the EHC or the administrative office for all EHC personnel and independent clinical contractors.

(n) The personnel file required by (m) above shall include the following:

- (1) A completed application for employment or a resume, including:
 - a. Identification data, including proof of being 18 years of age or older; and
 - b. The education and work experience of the employee;
- (2) A signed statement acknowledging the receipt of the EHC's policy setting forth the student'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) 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, 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;

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- (7) Copies of current CPR certifications;
- (8) Documentation of annual in-service education as required by (g)(5) above;
- (9) Information as to the general content and length of all continuing education or educational programs attended;
- (10) For unlicensed personnel that have been delegated the task of medication administration, the written evaluation by the delegating registered nurse that was used to determine the personnel member is competent to administer medications;
- (11) A statement that shall be signed at the time the initial offer of employment is made and then annually thereafter by all personnel stating that they:
 - a. Do not have a felony conviction in this or any other state;
 - b. Have 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 student; and
 - c. Have 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; and
- (12) Documentation of the criminal records check.

(o) An individual need not re-disclose any of the matters in (11) and (12) above if the documentation is available and the department has previously reviewed the material and determined that the individual can continue employment.

Source. #9193, eff 6-26-08; ss by #9565, eff 10-16-09

He-P 816.19 Quality Improvement.

- (a) The EHC shall develop and implement a quality improvement program that reviews policies and services and maximizes quality by preventing or correcting identified problems.
- (b) As part of its quality improvement program, a quality improvement committee shall be established.
- (c) The licensee shall determine the size and composition of the quality improvement committee based on the size of the EHC and the care and services offered.
- (d) The quality improvement committee shall:
 - (1) Determine the information to be monitored;
 - (2) Determine the frequency with which information will be reviewed;
 - (3) Determine the indicators that will apply to the information being monitored;
 - (4) Evaluate the information that is gathered;
 - (5) Determine the action that is necessary to correct identified problems;
 - (6) Recommend corrective actions to the licensee; and
 - (7) Evaluate the effectiveness of the corrective actions.

- (e) The quality improvement committee shall meet at least twice per year, once during the fall and once during the spring.
- (f) The quality improvement committee shall generate dated, written minutes after each meeting.
- (g) Documentation of all quality improvement activities shall be maintained on-site for at least 2 years.

Source. #9193, eff 6-26-08

He-P 816.20 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 written procedures for:
 - (1) Proper hand washing techniques;
 - (2) The utilization of universal 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 students with infectious or communicable diseases or illnesses;
 - (4) The handling, transport and disposal of those items identified as infectious waste in Env-Sw 103.28 and regulated by Env-Sw 904; and
 - (5) Reporting of infectious and communicable diseases as required by He-P 301.
- (c) The infection control education program shall address at a minimum the:
 - (1) Cause of infection;
 - (2) Effect of infections;
 - (3) Transmission of infections; and
 - (4) Prevention and containment of infections.
- (d) Personnel infected with a disease or illness transmissible through food, fomites or droplets, shall not work in the EHC until they are no longer contagious.
- (e) Pursuant to RSA 141-C:1, personnel 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 person is on tuberculosis treatment and has been determined to be non-infectious by a licensed practitioner.
- (f) Personnel with an open wound who work in the EHC shall cover such wound at all times by an impermeable, durable, tight fitting bandage.
- (g) Personnel infected with scabies or lice/pediculosis shall not provide direct care to students until such time as they are no longer infected.
- (h) Any EHCs caring for students with infectious or communicable diseases shall have available appropriate isolation accommodations, equipment, rooms and personnel as specified in the United States

Centers for Disease Control and Prevention 2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings (June 2007).

Source. #9193, eff 6-26-08

He-P 816.21 Sanitation.

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

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

(c) The EHC shall maintain a supply of potable water 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 students.

(e) Hot water shall be of a high enough temperature to ensure sanitation and food safety when used for laundry and food preparations.

(f) 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, program supplies and other cleaning materials.

(g) 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.

(h) 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.

(i) Bathrooms and laundry rooms, if present, shall have non-porous floors.

(j) There shall be a designated soiled workroom that contains a sink and storage area for soiled materials and linens.

(k) If equipment or supplies need to be sterilized in order to prevent contamination, the EHC shall develop and maintain written procedures for cleaning, packaging and sterilization that includes:

(1) Testing and documenting sterilization processes used;

(2) Documentation when supplies are outdated; and

(3) Ensuring that all sterile packages are stored separately from non-sterile supplies in an enclosed area.

(l) The sterilization system required in (k) above shall be checked for effective sterilization in accordance with the manufacturer's recommendation, and the results of these quality control tests shall be documented.

(m) Sterile and clean supplies and equipment shall:

(1) Be stored in dust-proof, moisture-free storage areas; and

(2) Not be mixed with soiled supplies.

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(n) All student bathing and toileting facilities shall be cleaned and disinfected as often as necessary to prevent illness or contamination, but at least:

(1) For bedpans, urinals, commodes and other student equipment as follows:

- a. After each use if used by more than one student; or
- b. Daily if used by only one student;

(2) For showers or tubs after each use by a different person; and

(3) For basin, fixtures and toilets at least once a day, and more often when soiled regardless of the number of people.

(o) Any EHC 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. #9193, eff 6-26-08

He-P 816.22 Physical Environment.

(a) The physical environment shall be maintained, inside and outside, so as to provide for the health, safety, well-being and comfort of students and personnel, including reasonable accommodations for students and personnel with mobility limitations.

(b) Equipment providing heat within an EHC including, but not limited to, gas furnace or boiler, oil furnace or boiler, wood stove or pellet stove shall:

(1) Maintain a temperature of at least 70 degrees Fahrenheit if student(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 personnel 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) Unvented fuel-fired heaters shall not be used in any EHC.

(f) 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.

(g) Ventilation shall be provided throughout the entire building by means of a mechanical ventilation system or with one or more screened windows that can be opened.

(h) Screens shall be provided for doors, windows or other openings to the outside.

(i) Doors that are self-closing and remain closed when not in use shall be exempt from the requirement in (h) above.

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- (j) The EHC shall have a telephone to which the students have access.
- (k) There shall be a reception and waiting area that includes chairs, tables and sufficient lighting.
- (l) In accordance with RSA 155:66, I, smoking shall be prohibited in the EHC.
- (m) All EHCs shall have access within the EHC to a bathroom with a toilet, a hand washing sink, soap dispenser, paper towels or a hand-drying device providing heated air, and hot and cold running water.
- (n) All bathrooms doors shall have a side hinge door and not a folding or sliding door or a curtain.
- (o) There shall be sufficient space and equipment for the services provided at the EHC.
- (p) If the EHC does not have licensed beds it shall provide standard twin size (or larger) bed(s) in a room designated specifically for rest or sleep to accommodate each student who may require rest or sleep during the time they are present during the day.
- (q) All beds shall be changed with clean linens between use by different students.
- (r) The licensee shall provide students with continuous access to a device or means that will signal EHC personnel when they are in need of assistance.
- (s) In addition to (m) above, EHC's with licensed beds shall have a bathroom equipped with tub or shower facilities sufficient to meet the needs of students.
- (t) All bathroom and closet door latches or locks shall be designed for easy opening from the inside and outside in an emergency.
- (u) All showers and tubs shall have slip resistant floors and surfaces which are intact, easily cleanable, and impervious to water.
- (v) Each room containing a licensed bed(s) shall:
 - (1) Provide at least 100 square feet per room with one bed and at least 160 square feet per room with 2 beds exclusive of space required for closets, wardrobes, and toilet room, except those licensed rooms existing on the date that this section takes effect shall provide at least 80 square feet for rooms with one bed and 140 square feet for rooms with 2 beds;
 - (2) Have a door that shall be of the side hinge type and not a folding door or a curtain;
 - (3) Have its own separate entry, which permits a student to reach the room without passing through another patient room;
 - (4) Have at least 3 feet of clear aisle space leading from one side of any bed to the door;
 - (5) Contain the following:
 - a. A minimum of one, but no more than 2, beds with mattresses;
 - b. A pillow, linens and blankets for each bed; and
 - c. One bedside table and a lamp or light for each bed;
 - (6) Have at least one over the bed table per room;
 - (7) Have window blinds or curtains that provide privacy;

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- (8) A privacy partition, curtain or screen between beds in semiprivate rooms; and
- (9) Have natural lighting directly from outside windows of a size equivalent to or greater than 8% of the room's gross square footage.
- (w) All mattresses and new upholstered furniture or draperies shall comply with Saf-C 6000.
- (x) The licensee shall be permitted to be licensed for more than one classification, but if the licensee has overnight beds for more than one licensing classification, physically separate and distinct units are required for each such classification and a different fire code chapter may be enforced for each classification.

Source. #9193, eff 6-26-08

He-P 816.23 Emergency and Fire Safety.

- (a) All EHCs shall meet the requirements of the appropriate chapter of NFPA 101 as adopted by the commissioner of the department of safety in Saf-C 6000.
- (b) All EHC's that have overnight beds shall have:
 - (1) Smoke detectors on every level and in every sleeping room that are interconnected to the building's fire alarm system and either hardwired, powered by the EHC's electrical service, or AC 120 volt wireless, as approved by the state fire marshal;
 - (2) At least one ABC type fire extinguisher on every level; and
 - (3) An approved carbon monoxide monitor on every level.
- (c) An emergency and fire safety program shall be developed and implemented to provide for the safety of students and personnel.
- (d) The EHC shall immediately notify the department by phone, fax or electronic mail within 24 hours and in writing within 72 hours of any fire or situation, excluding a false alarm, that requires either an emergency response to the EHC or the evacuation of the licensed premises.
- (e) The written notification required by (d) above shall include:
 - (1) The date and time of the incident;
 - (2) A description of the location and extent of the incident, including any injuries to students or personnel or damage sustained by the EHC;
 - (3) A description of events preceding and following the incident;
 - (4) The name of any personnel or students who were evacuated as a result of the incident, if applicable;
 - (5) The name of any personnel or students who required medical treatment as a result of the incident, if applicable; and
 - (6) The name of the individual the licensee wishes the department to contact if additional information is required.
- (f) For the use and storage of oxygen and other related gases, EHCs shall comply with NFPA 99 as adopted by the commissioner of the department of safety under Saf-C 6000 including, but not limited to, the following:

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- (1) All freestanding compressed gas cylinders shall be firmly secured to the adjacent wall or secured in a stand or rack;
 - (2) Storage locations shall be outdoors in an enclosure or within an enclosed interior space of noncombustible or limited-combustible construction, with doors, or with gates if outdoors, that can be secured against unauthorized entry;
 - (3) Oxidizing gases, such as oxygen and nitrous oxide, shall:
 - a. Not be stored with any flammable gas, liquid, or vapor;
 - b. Be separated from combustibles or incompatible materials by:
 1. A minimum distance of 20 ft (6.1 m);
 2. A minimum distance of 5 ft (1.5 m) if the entire storage location is protected by an automatic sprinkler system designed in accordance with NFPA 13, Standard for the Installation of Sprinkler Systems; or
 3. An approved, enclosed flammable liquid storage cabinet of noncombustible construction having a minimum fire protection rating of one-half hour for cylinder storage; and
 - c. Shall be secured in an upright position, such as with racks or chains;
 - (4) A precautionary sign, readable from a distance of 5 ft (1.5 m), shall be conspicuously displayed on each door or gate of the storage room or enclosure, and shall include, at a minimum, the following: “CAUTION, OXIDIZING GAS(ES) STORED WITHIN - NO SMOKING”; and
 - (5) Precautionary signs, readable from a distance of 5 ft (1.5 m), and with language such as “OXYGEN IN USE, NO SMOKING”, shall be conspicuously displayed wherever supplemental oxygen is in use and in aisles and walkways leading to the area of use, and shall be attached to adjacent doorways or to building walls or be supported by other appropriate means.
- (g) Each licensee shall develop a written emergency plan that covers:
- (1) Loss of electricity, water and or heat;
 - (2) Bomb threat;
 - (3) Severe weather;
 - (4) Fire;
 - (5) Gas leaks; and
 - (6) Any situation that requires evacuation or closure of the EHC.
- (h) Each licensee shall:
- (1) Annually review and revise, as needed, its emergency plan;
 - (2) Submit its emergency plan to the local emergency management director (EMD) and fire chief, if different than the EMD, for review and approval when initially written and whenever the plan is revised; and

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(3) Maintain documentation on-site which establishes that the emergency plan has been approved as required under (2) above.

(i) Evacuation drills shall include the transmission of a fire alarm signal and simulation of emergency fire condition.

(j) Evacuation drills shall be conducted monthly if the EHC has licensed beds or quarterly if it does not have beds and vary in time to include all staff.

(k) All staff shall participate in at least one drill quarterly.

(l) For personnel who are unable to participate in the scheduled drill described in (k) above, on the day they return to work the administrator or designee shall, if applicable, instruct them as to any changes in the facility's fire and emergency plan and document such instruction in their personnel file.

(m) Personnel who are unable to participate in a drill in accordance with (k) above shall participate in a drill within the next quarter.

(n) Per-diem or temporary personnel shall not be the only person on duty unless they have:

- (1) Participated in at least one actual fire drill in the facility in the past year; and
- (2) Participated in the facility's orientation program pursuant to He-P 816.18(g)(5).

(o) All emergency and evacuation drills shall be documented and include the following information:

- (1) The names of the personnel and students involved in the evacuation;
- (2) The time, including AM or PM, date, month, and year the drill was conducted;
- (3) The exits utilized;
- (4) The total time necessary to evacuate the EHC;
- (5) The time needed to complete the drill; and
- (6) Any problems encountered and corrective actions taken to rectify problems.

Source. #9193, eff 6-26-08

APPENDIX

Rule	Specific State or Federal Statutes the Rule Implements
He-P 816.01 – He-P 816.03	RSA 151:9, I(a)(b)
He-P 816.04 – He-P 816.06	RSA 151:2, I(a); RSA 151:2, II; RSA 151:9, I(a)
He-P 816.07 – He-P 816.08	RSA 151:9, I(a)
He-P 816.09	RSA 151:9, I(e)
He-P 816.10	RSA 151:9, I(a)
He-P 816.11	RSA 151:9, I(e)
He-P 816.12	RSA 151:9, I(f)(g)(l)(m)
He-P 816.13	RSA 151:9, I(f)(h)
He-P 816.14 – He-P 816-23	RSA 151:9, I(a)