Notice Number	**2025-90**	Rule Number	**He-P 805**

1. Agency Name & Address:	2. RSA Authority: **RSA 151:9**
Department of Health and Human Services **Health Facilities Administration** **129 Pleasant Street, Brown Bldg.** **Concord, NH 03301**	3. Federal Authority: 4. Type of Action: Adoption **X** Repeal Readoption Readoption w/amendment **X**

5. Short Title: **Supported Residential Health Care Facility Licensing Rules**

6. (a) Summary of what the rule says and of any proposed amendments including whether the rule implements a state statute for the first time:

He-P 805 sets forth the classification of and licensing requirements for supported residential health care facilities (SRHCF) pursuant to RSA 151:2, I(e)(2) and as described in RSA 151:9, VII(a)(2). A majority of He-P 805 is scheduled to expire on April 21, 2025, but is subject to extension pursuant to RSA 541-A:14-a.

The Department of Health and Human Services (Department) is proposing to readopt with amendment He-P 805. The proposed amendments include:

- **Updating various provisions of the rule for better clarity, program integrity, and to be consistent with language used in other rules, and making minor substantive and editorial revisions throughout to include updated citations, terminology, acronyms, grammar, and punctuation;**

- **Amending He-P 805.03 on definitions by:**

    - **Amending the definitions of "abuse", "administrator", "advance directive", "agent", "care plan", "chemical restraints", "commissioner", "department", "direct care", "directed plan of correction", "elopement", "employee", "health care occupancy", "infectious waste", "informed consent", "inspection", "laboratory", "license", "licensed practitioner", "licensed premises", "licensee", "life safety code", "medical director", "medication", "notice to correct", "nursing care plan", "patient's personal representative" formerly "personal representative", "personal care" formerly "personal assistance", "personnel", "physical restraint", "point of care testing (POCT)", "pro re nata (PRN) medication", "reportable incident", "residential board and care", "respite care", "self administration of medication with assistance" formerly "self administration with assistance", "self administration of medication without assistance" formerly "self administration without assistance", "self directed medication administration", "underwriters laboratories listed", and "volunteer";**

    - **Adding the definitions of "adverse drug reaction", "affiliated parties", "controlling interest", "demonstrated competency", "drug diversion", "independent contractor", "medication error", "rehabilitation", "self-preservation capability", "serious bodily injury", "state building code", "state fire code", "transfer", "unanticipated death", and "visitor"; and**

- **Deleting the definitions of "critical incident stress management (CISM)", "incident command system (ICS)", "license certificate", "one and 2 family dwelling unit", "residential care facility", "severe mobility impairment", and "unexplained absence";**

- **Amending He-P 805.04 on initial license application submission by updating the incorporated "Application for Residential, Health Care, or Specials Health Care Services" to the most recently adopted version and the requirements that shall be submitted with the application;**

- **Amending He-P 805.05 on the processing of applications and issuance of licenses by making minor revisions to update citations, terminology, and for clarity;**

- **Amending He-P 805.06 on license expirations and procedures for renewal by aligning the license expiration with RSA 151:5 and updating the requirements of what shall be provided with the renewal application to reflect revisions to RSA 153:5 and Saf-C 6005 of the Department of Safety;**

- **Amending He-P 805.07 on SRHCF construction, modifications, or structural alterations to align with RSA 151:6, updating the incorporated material to the most recent edition, and making various revisions on the existing requirements for clarity;**

- **Amending He-P 805.08 on SRHCF requirements for organizational or service changes by removing references to "license certificate", adding references to "medical director", updating the background check requirements by removing the requirement that background checks must be completed by the New Hampshire Department of Safety and adding that the background check includes criminal history from New Hampshire, and by making other clarifying revisions to existing requirements;**

- **Amending He-P 805.09 on inspections by adding that a proposed licensed premise is subject to inspection to determine compliance with RSA 151 and He-P 805;**

- **Amending He-P 805.10 on waivers by clarifying what shall be included in a waiver request and making other minor revisions;**

- **Amending He-P 805.11 on complaints by updating the warning process for unlicensed individuals or entities and making other minor revisions;**

- **Amending He-P 805.12 on administrative remedies by adding the ability to suspend a license if a directed plan of correction has not been implemented at the time of the next inspection, updating the state monitoring conditions, and making other minor clarifying revisions;**

- **Amending He-P 805.13 on enforcement actions and hearings by adding a complete list of the enforcement actions that the Department can take, updating when the Department can deny an application or revoke a license, removing state monitoring requirements as it is found in He-P 805.12, and making other minor clarifying revisions;**

- **Amending He-P 805.14 on duties and responsibilities of the licensee by updating and clarifying the duties and obligations of the licensee to include areas of policies and procedures, patient decision making, documentation, notice requirements, and reporting to the Department, and by making additional editorial and substantive revisions;**

- **Amending He-P 805.15 on resident admission criteria, temporary absence, transfer, and discharge criteria by making minor clarifying and editorial revisions;**

- **Amending He-P 805.16 on required services by updating administrator requirements, what shall be included in the residential service agreement and that residency shall not begin until a compliant residential service agreement is reviewed and signed, updating the incorporated "Care Assessment for Residential Services (CARES) Tool", adding additional requirements to progress notes and the required health assessment, and by making other revisions for clarity;**

- **Amending He-P 805.17 on medication services by updating the various requirements to include written policies and systems, medication administration, destruction of controlled drugs, what shall be included in the medication assistance education program, medication error reporting and documentation, and medication preparation, adding requirements for the therapeutic use of cannabis, and making clarifying revisions to existing requirements;**

- **Amending He-P 805.18 on personnel by updating and clarifying requirements to include areas of background and state registry checks and the unfavorable results of either, the allowance of a signed statement under specific conditions, education and experience requirements for administrators, the required policies and procedures, compliance extensions, and personnel records, and by making other clarifying revisions to existing requirements;**

- **Amending He-P 805.19 on resident records by making clarifying revisions to existing requirements and adding requirements on electronic records;**

- **Amending He-P 805.20 on respite care by making clarifying revisions to existing requirements and adding that a resident shall be discharged if they are not admitted to the facility after 30 days of receiving respite care;**

- **Amending He-P 805.21 on food services by updating the incorporated dietary guidelines to the most recent edition, adding a reference to the U.S. Department of Health & Human Services', "Food Code" (2017 edition), adding that regularly scheduled training programs shall be available to food service personnel, and making clarifying revisions to existing requirements;**

- **Amending He-P 805.22 on infection control by incorporating the U.S. Centers for Disease Control and Preventions', "2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings" and making clarifying revisions to existing requirements;**

- **Amending He-P 805.23 on sanitation by making clarifying revisions to existing requirements and adding that trash receptacles in the food service areas shall be covered at all times, except during food preparation and clean-up;**

- **Adding new section, He-P 805.24 on quality improvement and renumbering subsequent sections;**

- **Amending He-P 805.25, formerly He-P 805.24, on physical environment by adding additional requirements in the areas of accessibility, maintenance, environmental nuisances, obstructions, and preventing the presence of rodents, insects, and vermin, updating what shall be provided for the residents' room, and making other revisions for clarity;**

- **Amending He-P 805.26, formerly He-P 805.25, on fire safety by updating existing language surrounding the state fire code and state building code, updating what fire safety requirements the facility shall have, requiring that the licensee shall have a written emergency and fire safety program, and making clarifying revisions to existing requirements; and**

- **Amending He-P 805.27, formerly He-P 805.26, on emergency preparedness by updating various requirements surrounding the emergency preparedness plan and what it shall include, adding the requirement that the facility shall develop and maintain emergency preparedness training for all staff, individuals providing services, and volunteers, and adding that the facility shall conduct and document exercises to test the emergency preparedness plan at least twice per year.**

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

He-P 805 applies to any individual, agency, partnership, corporation, government entity, association, or other legal entity operating a SRHCF pursuant to RSA 151:9, VII(a)(2).

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

Rule	Specific State or Federal Statutes the Rule Implements
He-P 805.01 – He-P 805.03	RSA 151:9, I; RSA 151:9, VII(a)(2)
He-P 805.04	RSA 151:4, I – III-a and IV; RSA 151:9, I(c);
He-P 805.05 and He-P 805.06	RSA 151:4, I – III-a; RSA 151:5; RSA 151:7, I; RSA 151:9, I(c) & (d)
He-P 805.07	RSA 151:9, I; RSA 151:3-a; RSA 151:6, II; RSA 151:9, I(a), RSA 153:10-b, V
He-P 805.08 – He-P 805.10	RSA 151:9, I and I(b); RSA 151:6, I; RSA 151:6-a; RSA 151:9, I(a) & (e)
He-P 805.11	RSA 151:6, I; RSA 151:9, I(e)
He-P 805.12 and He-P 805.13	RSA 151:7, II – IV; RSA 151:7-a; RSA 151:8; RSA 151:9, I(f), (g), (h) & (l); RSA 151:16-a
He-P 805.14 – He-P 805.27	RSA 151:2, 2-b and 2, IV, RSA 151:5, RSA 151:5-a and 5-a,III, RSA 151:9, I and I(a); RSA 151:9, VII(a)(1) & (2), RSA 151:9-b, and b I-V, RSA 151:19, RSA 151-20, RSA 151:20,II, RSA 151:21, V & VII, RSA 151:24, RSA 151:25, RSA 151:26 and 26, II(b), RSA 151:29, RSA 151;41, RSA 151:47-49, RSA 151:50, RSA 151:52(e)

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

Name: **Allyson Raadmae** Title: **Administrator- Administrative Rules Unit**

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or dial 711 (in NH)

The proposed rules may be viewed and downloaded at:
https://www.dhhs.nh.gov/doing-business-dhhs/legal-services/administrative-rules/nh-administrative-rules-public-comment

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Wednesday, June 4, 2025**

☒ Fax ☒ E-mail ☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Wednesday, May 28, 2025 at 10:30 a.m.**

Physical Location: **DHHS Brown Bldg., Auditorium, 129 Pleasant St., Concord, NH**

Electronic Access (if applicable): **N/A**

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

FIS # **25:063** , dated **April 15, 2025**

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

When compared to the existing rules, the proposed rules will have an indeterminable impact on state general fund revenue and may increase costs for independently-owned business by an indeterminable amount.

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

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

A. To State general or State special funds:

Changes to administrative fines may increase or decrease state general fund revenue to the extent that providers are or have been in noncompliance with the applicable rule or law. The Department of Health and Human Services notes that the issuance of fines is a rare occurrence and can be avoided through compliance.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

The potential costs to licensed State Residential Health Care Facilities (SRHCFs) include updating background check requirements and requiring certain independent contractors and volunteers to have criminal background checks. In addition, changes to administrative fines could impact providers to the extent that they are or have been in noncompliance with the applicable rule or law (See A above). The Department states there may be an indeterminable cost to complying with additional requirements such as adding and developing a quality improvement plan, creating a written emergency and fire safety program, and developing and maintaining emergency preparedness training for all staff, individuals providing services, and volunteers. There may be costs resulting from updates to the physical environment of the SRHCF to include the areas of accessibility, maintenance, environmental nuisances, obstructions, and preventing the presence of rodents, insects, and vermin. A facility may also experience increased costs as a result of daily operation, record keeping, policies and procedures, record retention, and reporting requirements.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rule modifies an existing program or responsibility, but does not mandate any fees, duties, or expenditures on the political subdivisions of the state, and therefore does not violate Part I, Article 28-a of the N.H. Constitution.