

CHAPTER He-M 300 RIGHTS

Readopt with amendment He-M 309, effective 8-26-25 (Document #14352, Interim), to read as follows:

PART He-M 309 RIGHTS OF PERSONS RECEIVING MENTAL HEALTH SERVICES IN THE COMMUNITY

He-M 309.01 Purpose. The purpose of these rules is to define the rights of individuals applying for services or individuals who have been found eligible for services under RSA 135-C:12 and who are receiving services in the community. Individuals might have additional rights under RSA 151:21, patients' bill of rights, for residents of health care facilities.

He-M 309.02 Definitions.

(a) "Abuse" means an act or omission by an employee, consultant or volunteer of a program which is not accidental and harms or threatens to harm an individual's physical, mental, or emotional health, or safety and includes emotional abuse, physical abuse, and sexual abuse.

(b) "Attorney" means a member of the New Hampshire Bar Association who is retained, employed, or appointed by a court to represent an individual.

~~(c) "Bureau" means the bureau of behavioral health within the department of health and human services.~~

~~(d)~~ (c) "Client" means "individual" as defined in (m) below.

(e) "Community" means a non-facility or non-institutional service setting that is integrated as much as possible into the service network available to all citizens in the geographic area served by the program.

(e) "Community mental health program (CMHP)" means a program defined in RSA 135-C:2 IV, approved by the department pursuant to He-M 403, and operated by the state, city, town, or county, or a community-based New Hampshire nonprofit corporation for the purpose of planning, establishing, and administering an array of community-based, mental health services. This term includes "community mental health center".

(f) "Community mental health provider" means a provider of community mental health services enrolled as a New Hampshire Medicaid provider, who has been previously approved by the commissioner to provide specific mental health services pursuant to He-M 426.

~~(g)~~ (f) "Community residence" means a residence, exclusive of any independent living arrangement, that:

- (1) Provides residential services in accordance with He-M 426 for at least one individual with a mental illness;
- (2) Provides services based on the needs identified in a resident's individual service plan (ISP);
- (3) Is operated:

a. Directly by a ~~community mental health center (CMHPC)~~ community mental health provider;

b. By contract or agreement between a CMHPC or community mental health provider, and another entity;⁵ or

c. Directly by an entity under contract with the department;

(4) Serves individuals whose services are funded by the department; and

(5) Is certified pursuant to He-M 1002.

(hg) "Department" means the department of health and human services.

(ih) "Direct care" means services provided to individuals including, but not limited to, assistance with medication, accompanying an individual to a treatment team or other clinical meeting, and providing ongoing direct and active support.

(ij) "Emotional abuse" means the misuse of power, authority, or both, verbal harassment, or unreasonable confinement which results or could result in mental anguish or emotional distress of an individual.

(kj) "Exploitation" means the use of an individual's person or property for another's profit or advantage or breach of a fiduciary relationship through improper use of an individual's person or property including situations where a person obtains money, property, or services from an individual through undue influence, harassment, deception, or fraud.

(lk) "Guardian" means a person, appointed under RSA 463 or RSA 464-A, or the parent of an individual under the age of 18 whose parental rights have not been terminated or limited by law in such a way as to remove the person's right to make health care decisions on behalf of the individual.

(ml) "Individual" means: ~~a~~-A person who is receiving or applying for a service from a program or community residence. ~~This~~ term includes "client."²

(nm) "Informed decision" means "informed decision" as defined in RSA 135-C:2, IX, namely, "a choice made by a client or person seeking to be admitted who has the ability to make such a choice and who makes it voluntarily after all relevant information necessary to making the decision has been provided, and who understands that he ~~or she~~ is free to choose or refuse any available alternative, and who clearly indicates or expresses his ~~or her~~ choice. The choice shall be free from all coercion." The term includes such decision of an individual, as defined in He-M 309.02^(ln) above, and the individual's legal guardian, where appropriate, based on the same factors as an informed decision made by a client or person seeking to be admitted.

(no) "Intellectual disability" means "intellectual disability" as defined in RSA 171-A:2, XI-a, namely, "significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior, and manifested during the developmental period. A person with an intellectual disability may be considered mentally ill provided that no person with an intellectual disability shall be considered mentally ill solely by virtue of his or her intellectual disability."

(op) "Mental illness" means "mental illness" as defined in RSA 135-C:2, X, namely, "a substantial impairment of emotional processes, or of the ability to exercise conscious control of one's actions, or of the ability to perceive reality or to reason, when the impairment is manifested by instances of extremely abnormal behavior or extremely faulty perceptions. It does not include impairment primarily caused by: (a) epilepsy; (b) intellectual disability; (c) continuous or noncontinuous periods of intoxication caused by substances such as alcohol or drugs; or (d) dependence upon or addiction to any substance such as alcohol or drugs."

(pq) "Neglect" means an act or omission which results or could result in the deprivation of essential services or supports necessary to maintain the minimum mental, emotional, or physical health of an incapacitated adult or minor. The term includes neglect toward an individual.

(qr) "Program" means any public or private corporation, person, or organization which provides services to individuals with a mental illness or intellectual disability when such services are funded, in whole or in part, or are operated, monitored, or regulated by the department's bureau of mental health services or the bureau for children's behavioral health.

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

(ts) "Service" means any evaluation, training, counseling, therapy, habilitation, case management, or other type of assistance, medical care, or treatment provided by a program.

(ts) "Service delivery system" means those facilities and programs funded, in whole or in part, operated, monitored, or regulated by the department's bureau of mental health services or bureau for children's behavioral health.

(tu) "Sexual abuse" means contact or interaction of a sexual nature between an individual and an employee of or a consultant or volunteer for a program.

(uv) "Treatment" means "treatment" as defined in RSA 135-C:2, XVI, namely, "examination, diagnosis, training, rehabilitation therapy, pharmaceuticals, and other services provided to clients in the mental health services system. Treatment shall not include examination or diagnosis for the purpose of determining the need for involuntary emergency admissions pursuant to RSA 135-C:27-33 or involuntary admissions pursuant to RSA 135-C:34-54." The term includes treatment provided to individuals in the mental health services system.

He-M 309.03 Notice of Individual and Applicant Rights.

(a) Programs shall inform individuals or their guardians of the individual's rights under RSA 135-C and ~~these rules~~ He-M 309 in clearly understandable language and form, both verbally and in writing.

(b) The notification of rights required under (a) above shall include, at a minimum, the following measures:

- (1) Individuals applying for services shall be informed of the rights in (a) above relating to evaluations and access to treatment;
- (2) Programs shall provide meaningful and understandable information about individual rights described in (a) above to individuals who are minors or who have been adjudicated incapacitated as well as to their parents, guardians, or attorneys;
- (3) Individuals shall be advised of their rights upon initial participation in any program, and at least once a year after initial participation;
- (4) Every program within the service delivery system shall post notice of the rights set forth in these rules, as follows:
 - a. The notice shall be posted continuously and conspicuously; and
 - b. The notice shall be presented in clearly understandable language and form; and

(5) Each program and community residence shall have on the premises complete copies of He-M 309 available for individual and staff review.

(c) Each program shall document notifications of the opportunity to review He-M 309 in the individual's records.

(d) Any person shall have the right to complain or bring a grievance on behalf of an individual or a group of individuals pursuant to He-M 204.

He-M 309.04 Fundamental Rights.

(a) Any individual receiving treatment for mental illness shall be entitled to any legal right to which all citizens are entitled regardless of that individual's admission to the mental health services system.

(b) The legal rights protected shall include, at a minimum:

(1) The right to freedom of religious preference and practice, the right to be free from engaging in any religious activity, and the right to receive reasonable assistance in attending places of worship;

(2) The right to register to vote, if eligible, in public elections and to receive assistance in registering to vote and in voting;

(3) The following civil rights, unless a court has determined that an individual is legally incapacitated pursuant to RSA 464-A, and a guardian has been appointed to make certain decisions, ~~or an emergency exists under He-M 305, personal safety emergencies:~~

- a. The right to manage affairs;
- b. The right to contract;
- c. The right to hold professional, occupational, or motor vehicle driver's licenses;
- d. The right to marry or to obtain a divorce;
- e. The right to make a will; and
- f. The right to exercise any other civil right;

(4) The right to not be discriminated against in any manner because of race, color, sex, religion, national origin, age, marital status, disability, sexual orientation, or degree of disability as provided in state and federal laws, title VII of the civil rights act of 1964, section 504 of the rehabilitation act of 1973, the age discrimination act of 1975, the Americans with Disabilities Act of 1990, and the provisions of certain block grants, including:

- a. Access to auxiliary aids needed by persons with disabilities;
- b. Services which are accessible to persons of limited English proficiency; and
- c. Service locations that are physically accessible; and

(5) The right to legal remedies, including the right to petition for and receive the benefits of a writ of habeas corpus, and to seek any other remedy provided by law.

He-M 309.05 Personal Rights.

(a) Individuals who are applying for services or individuals in the service delivery system shall be treated with dignity and respect at all times.

(b) Individuals shall be free from abuse, neglect, and exploitation including, at a minimum, the following:

(1) Freedom from any emotional, physical, or sexual abuse or neglect;

(2) Freedom from the intentional use of physical force, except the minimum force necessary to prevent harm to the individual or others, to prevent substantial damage to real property, or to impose emergency treatment under He-M 305, ~~personal safety emergencies~~ or RSA 135:21-b; and

(3) Freedom from personal or financial exploitation.

(c) Individuals shall have the right to privacy.

(d) Individuals who are applying for services, or who are currently, or were previously in the service delivery system shall have the right to confidentiality of all information and records.

(e) At a minimum, programs shall adhere to the following confidentiality requirements:

(1) Material safeguarded shall include any information with respect to an individual or through which an individual can be identified such as:

a. Names;

b. Addresses;

c. Diagnoses and evaluative data;

d. Medical and clinical records;

e. Individual service plans; and

f. Whether an individual is using or has used a program's services;

(2) The individual or ~~their his or her~~ guardian shall be informed that clinical information may be released to the third party payor to the extent necessary to substantiate charges for care and treatment;

(3) If the individual or ~~their his or her~~ guardian wishes to bear the cost of services privately rather than allow the release of information to third party payors, the individual or ~~their his or her~~ guardian shall be personally responsible for the full cost of care and treatment;

(4) All program staff shall be informed so as to know and understand confidentiality and comply with confidentiality statutes and rules;

(5) Separate, individual records shall be maintained when group treatment methods are employed and joint records of treatment activity shall not be maintained;

(6) Other than the exceptions described in (e)(7) below, ~~No~~ program shall photograph, fingerprint, or record any individual by audio or visual equipment unless the individual or ~~their his or her~~ guardian has consented following an informed decision, nor allow any third party to

photograph, fingerprint, or record any individual by audio or visual equipment unless the individual or ~~their his or her~~ guardian has consented following an informed decision;

(7) Audio or video recording shall only occur in areas where there is no expectation of privacy, such as entrances and exits, public areas, exterior areas, or common areas. A program recording in such areas shall:

a. Post a notice of the use of audio or video surveillance, or both, at any public entrance to the building; and

b. Develop and follow a policy for audio or video monitoring and recording, or both, designed to maintain safety and provide for appropriate privacy in compliance with (e)(6) and (e)(7).

~~(78) These rules~~ This section shall not affect the obligation of programs to release information as required by:

- a. RSA 161-F:42-57, protective services to adults;
- b. RSA 169-C:29, report of child abuse;
- c. RSA 631:6, report of injury caused by criminal act; or
- d. Other law; and

~~(98)~~ In accordance with RSA 329:26, RSA 330-A:32, RSA 329-B:26, and RSA 326-B:35, statements made by individuals to physicians licensed pursuant to RSA 329, psychologists licensed pursuant to RSA 329-B, persons licensed pursuant to RSA 330-A, advanced practice registered nurses licensed pursuant to RSA 326-B, or to those who work under their supervision, may be disclosed for the purpose of commitment hearings conducted pursuant to RSA 135-C:27-54 or RSA 464-A.

(f) Access to an individual's records shall be as follows:

(1) Information pertaining to an individual shall be released to the individual upon request. The same shall be released to the individual's guardian or parent if they are a minor upon request. Exceptions to the release of information include:

a. If a privilege under RSA 329:26, RSA 330-A:32, RSA 329-B:26, or RSA 326-B:35 is asserted by the individual, the provider, or a parent, the provider will not release the information; and

~~b. or his or her guardian upon request including all~~ If there was information provided by ~~third parties except that information which was provided~~ by someone other than a health care provider under an agreement that the information would not be disclosed and disclosure would be reasonably likely to reveal the source of the information, that portion of the individual's information shall not be released.

(2) When information is not released, the individual or ~~their his or her~~ guardian shall be provided with a written denial stating the basis for the denial, a description of how a complaint may be filed, the name, title, and address of the contact person to receive the complaint, and the process for filing a complaint pursuant to 45 C.F.R. 160.306;

- (23) A clinical staff member shall be present at a record review if:
- a. There is a reasonable concern that an individual will experience a harmful effect as a result of reviewing ~~their his or her~~ record, or reasonable concern that the security of the record is at risk; and
 - b. The determination that (2)a. above applies has been made on a ~~case-by-case~~ basis, and the reasons for the determination have been documented in writing;
- (34) Information shall be released to any person or organization that has obtained the written consent of the individual or ~~their his or her~~ guardian;
- (54) Information shall be released to the department and funding, licensing, and accrediting agencies by programs within the service delivery system as necessary for:
- a. Determining eligibility for funding;
 - b. Assisting in accrediting or licensing decisions;
 - c. Monitoring and evaluating service delivery;
 - d. Assuring the delivery of appropriate services to individuals; and
 - e. Planning future service delivery;
- (56) Programs shall not include or release confidential information in an individual's record which pertains to other individuals;
- (67) Programs shall include within the records of an individual any supplemental information provided by the individual or ~~their his or her~~ guardian either clarifying or rebutting information deemed by the individual to be inaccurate;
- (78) An attorney appointed by a court to represent an individual shall have access to all records and information pertaining to that individual relevant to the court proceedings;
- (89) Legal counsel for the department shall have access to all relevant records and information pertaining to an individual when such records and information are necessary because the individual:
- a. Is the subject of an involuntary commitment hearing;
 - b. Is the subject of a guardianship proceeding; or
 - c. Has instituted legal action against the state in regard to care and treatment provided by the ~~mental health~~ service delivery system;
- (910) In cases where an individual, ~~their his or her~~ guardian, an attorney or other advocate representing the individual, after review of the record, requests copies of the record, the cost for electronic copies shall be charged at a reasonable rate not to exceed \$50.00. The cost for paper copies shall not exceed \$5 for the first page, \$.41 per page for pages 2 through 50, and \$.30 per page for pages 51 and higher. such copies in paper format, shall be made available free of charge for the first 25 pages and not more than 25 cents per page thereafter; or, if available, copies of records electronically stored and produced, shall be made available free of charge for the first 25 pages and at actual cost per page thereafter. The individual, ~~their his or~~

~~her~~ guardian, attorney, or other advocate ~~who represents~~~~ing~~ the individual may choose whether to receive the record in paper form, or if available, in electronic form;

(101) Information regarding the medical treatment of an individual shall be released to law enforcement officials or health facility personnel if necessary to address an emergency situation involving danger to the individual's health or safety, but only specific information necessary to the relief of the emergency may be released without the individual or ~~their his or her~~ guardian's consent;

(12) In accordance with RSA 329:31, RSA 330-A:35, RSA 329-B:29, and RSA 326-B:33, any of the following persons licensed in New Hampshire shall make reasonable efforts to disclose to a third party or law enforcement when an individual has made a serious threat of physical violence against a clearly identified or reasonably identifiable victim or victims, or a serious threat of substantial damage to real property:

- a. A physician;
- b. A psychologist;
- c. An advance practice registered nurse;
- d. Any person licensed pursuant to RSA 330-A; or
- e. Any person who works under the supervision of any of the above;

(123) In accordance with RSA 135-C:19-a, I, a community mental health center may disclose to a family member or other person, if such family member or other person lives with the individual or provides direct care to the individual information regarding:

- a. Diagnosis;
- b. Admission to or discharge from a treatment facility;
- c. Functional assessment;
- d. The name of the medicine prescribed;
- e. The side effects of any medication prescribed;
- f. Behavioral or physical manifestations which would result from failure of the individual to take such prescribed medication;
- g. Treatment plans and goals; and
- h. Behavioral management strategies;

(134) Information shall not be released pursuant to (132) above unless the program first:

- a. Provides written notice to the individual or ~~their his or her~~ guardian specifying the information requested, the reason for the request, and the person making the request;
- b. Requests the individual or ~~their his or her~~ guardian's consent to release the information; and
- c. If consent cannot be obtained, the individual shall be notified in writing prior to the disclosure of:

1. The reason for the intended disclosure;
2. The name of the person(s) to whom the information will be released; and
3. The specific information intended to be released;

(154) A ~~community mental health center~~ CMHP or community mental health provider shall receive or accept communications from family members, friends, or other persons with information pertaining to the health and safety of the individual, and shall document such communications in the individual's record;

(156) In accordance with RSA 135-C:19-a, II, when the medical director or designee determines that obtaining information is essential to the care or treatment of an individual admitted pursuant to RSA 135-C:27-54, a designated receiving facility may request, and any health care provider which previously provided services to any individual involuntarily admitted to the facility may provide, information about such individual limited to medications prescribed, known medication allergies, or other information essential to the medical or psychiatric care of the individual admitted;

(167) Information shall not be released pursuant to (f)(156) above unless the program first:

- a. Provides written notice to the individual or ~~their his or her~~ guardian specifying the information requested, the reason for the request, and the person making the request;
- b. Requests, the individual or ~~their his or her~~ guardian's consent to release the information; and
- c. If consent cannot be obtained, the facility shall notify the individual in writing prior to the disclosure of:
 1. The name of the care provider who have been asked to provide information;
 2. The reason for the disclosure;
 3. The name of the person(s) to whom the information will be released; and
 4. The specific information which will be released;

(178) In accordance with RSA 135-C:19-a, II-a, when the medical director, or designee, determines that obtaining information is essential to the care and treatment of an individual admitted pursuant to RSA 135-C:27-54 and the consent of the individual admitted or ~~their his or her~~ guardian ~~admitted~~ cannot be obtained, the designated receiving facility may request and any ~~community mental health program~~ CMHP which has previously provided services to such individual shall immediately provide information about the individual including medications prescribed, known medication allergies, services provided, and other information essential to the medical and psychiatric care of the individual admitted. The facility may disclose information necessary to identify the individual and the facility which is requesting the information; and

(189) In accordance with RSA 135-C:19-a, III, a ~~community mental health program~~ CMHP or state facility may disclose to an interdisciplinary committee designated by the governor to review child fatalities, information which is relevant to a case of suicide or traumatic fatal injury under review by such committee. Information to be disclosed to such committee shall be limited to the diagnosis and course of treatment of the child or the person who caused the

fatality. Information disclosed pursuant to this subparagraph shall remain confidential and shall not be subject to discovery, subpoena, or admission into evidence in any judicial or administrative proceeding.

(g) Individuals or their guardians shall have the right to complain about any alleged violation of a right afforded by these rules or by any state or federal law or rule or any other matter.

He-M 309.06 Treatment Rights.

(a) Individuals shall have the right to adequate and humane treatment, including:

(1) The right of access to treatment including:

- a. For those individuals applying for services the right to evaluation to determine the individual's need for services and to determine which programs are most suited to provide the services needed;
- b. The right to receive necessary services when those services are available, subject to the admission and eligibility policies and standards of each program; and
- c. The right to receive services without regard to race, color, age, religion, sex, marital status, national origin, severity of disability, sexual orientation, or inability to pay except in accordance with He-M ~~401.14309.07~~;

(2) The right to quality treatment including:

- a. Treatment and services provided in accordance with licensing requirements and applicable rules adopted by the department in He-M 200-1300 and applicable rules of other state agencies; and
- b. Services provided in keeping with generally accepted clinical and professional standards applicable to the persons and programs providing the treatment and to the conditions for which the individual is being treated;

(3) The right to receive services in such a manner as to promote the individual's full participation in ~~their his or her~~ community;

(4) The right to receive all services or treatment in accordance with the time frame set forth in the individual service plan;

(5) The right to an individual service plan developed, reviewed, and revised in accordance with He-M ~~408~~ which addresses the individual's own goals;

(6) The right to receive treatment and services contained in individual service plans designed to provide opportunities for the individual to participate in meaningful activities in the communities in which they live and work;

(7) The right to service and treatment in the least restrictive alternative or environment necessary to achieve the intended purposes of treatment including programs which least restrict freedom of movement, informed decision-making, and participation in the community while providing the level of security and support needed by the individual;

(8) The right to be served, whenever possible, in generic, integrated settings rather than specialized programs for persons with mental illness, except that programs may restrict access by individuals to various areas to:

- a. Ensure the privacy or safety of the individuals;
- b. Achieve other necessary objectives contained in the individual service plan; or
- c. Comply with provisions of law or orders of court;

(9) The right for the individual or ~~their his or her~~ guardian to be informed of all significant risks, benefits, side effects, and alternative treatment and services and to give consent to any treatment, placement, or referral following an informed decision except actions ~~taken under He-M 305 or where~~ otherwise provided by law, such that:

- a. Whenever possible, the consent shall be given in writing; and
- b. In all other cases, evidence of consent shall be documented by the program and be witnessed by at least one person;

(10) The right to refuse to participate in any form of experimental treatment or research;

(11) The right to be fully informed of one's own diagnosis and prognosis;

(12) The right to voluntary placement unless RSA 135-C:27-33, 135-C:34-48, or 135-C:51 apply, including the right to:

- a. Seek changes in placement, services, or treatment at any time; and
- b. Withdraw from any form of voluntary treatment or from the service delivery system;

(13) The right to services which promote independence including services which shall be directed toward:

- a. Eliminating, or reducing as much as possible, the individual's needs for continued services and treatment; and
- b. Promoting the ability of the individuals to function at their highest capacity and as independently as possible;

(14) The right to refuse medication and treatment except emergency treatment provided under the terms and conditions of RSA 135:21-b;

(15) The right to referral for medical care and treatment including:

- a. Assistance in finding such care and treatment in a prompt and timely manner; and
- b. Access to such medical services as is required in accordance with He-M ~~401~~426;

(16) The right to consultation and second opinion including:

- a. At the individual's own expense, the consultative services of:
 1. Private physicians;
 2. Psychologists;

3. Dentists; and
4. Other health practitioners;

- b. Granting to such health practitioners reasonable access to the individual in programs; and
- c. Allowing such health practitioners to make recommendations to programs regarding the services and treatment provided by the programs;

(17) The right, upon request, to have one or more of the following present at any treatment meeting requiring the individual's participation and informed decision-making:

- a. Guardian;
- b. Representative;
- c. Attorney;
- d. Family member;
- e. Friend;
- f. Advocate;
- g. Consultant; or
- h. Peer;

(18) The right to freedom from restraint including the right to be free from seclusion and physical, mechanical, or pharmacological restraint; and

(19) If the individual meets the definition of a "child" in RSA 126-U:1, the right to freedom from restraint and seclusion, as defined in RSA 126-U:1, IV and V-a, respectively, except as allowed by RSA 126-U.

(b) These rules shall not require any behavioral health care professional to administer treatment contrary to such professional's clinical judgment.

(c) Programs shall, whenever possible, maximize the decision-making authority of the individual.

(d) For individuals who have a guardian, the following provisions shall apply:

(1) The program shall ensure that, the guardian and all persons involved in the provision of service are made aware of the individual's needs, views, preferences and aspirations;

(2) The program shall comply with the decisions made by the guardian within the legitimate scope of ~~their his or her~~ authority;

(3) A guardian is only allowed to make decisions that are within the scope of ~~their his or her~~ powers pursuant to RSA 464-A:25, RSA 463, and as modified by the court, or as otherwise allowed by law;

(4) The program shall request a copy of the guardianship order from the guardian and keep the order in the individual's record at the program;

(5) If any issues arise relative to the provision of services and supports which are outside the scope of the guardian's decision-making authority as set forth in the guardianship order, the individual's choice and preference relative to those issues shall prevail unless the guardian's authority is expanded by the court to include those issues;

(6) A program shall take such steps as are necessary to prevent a guardian from exceeding the decision-making authority granted by the court or acting in a manner that does not further the best interests of the individual, including:

- a. Reviewing with the guardian the limits on ~~their his or her~~ decision-making authority; and
- b. If necessary, bringing the matter to the attention of the court that appointed the guardian; and

(7) In the event that there is a dispute between the program and the guardian, the program shall inform the guardian of ~~their his or her~~ right to take either or both of the following actions:

- a. Appeal the matter pursuant to He-M 204 and He-C 200; or
- b. Bring the dispute to the attention of the probate court that appointed the guardian, if pertaining to an individual over the age of 18 years old.

~~He-M 309.07 Suspension and Termination of Services. ~~Termination of services shall be done only pursuant to He M 401.14.~~~~

~~He M 309.08 Suspension of Services. ~~Suspension of services shall be done only pursuant to He M 401.14.~~~~

~~(a) An individual shall not be suspended or terminated from services a CMHP may provide in conjunction with crisis or emergency services.~~

~~(b) An individual may be suspended by a CMHP or community mental health provider from services other than the services set forth in (a) above if:~~

~~(1) The individual:~~

- ~~a. Endangers or threatens to endanger other individuals or staff and the clinical circumstances would not result in an involuntary emergency admission pursuant to RSA 135-C:27-33;~~
- ~~b. Is no longer benefiting from the services they are receiving; or~~
- ~~c. Meets suspension provisions that are part of the treatment program specified in their individual service plan;~~

~~(2) The suspension has been approved by the CMHP or community mental health provider's chief executive officer or designee; and~~

~~(3) Prior to the suspension, the individual or guardian, if any, has received written notice that:~~

- ~~a. Specifies the effective date of the suspension;~~

b. Specifies the duration of the suspension;

c. Specifies the conditions of the suspension if the suspension is conditional;

d. Lists the clinical or management reasons for the suspension; and

e. Explains the right to appeal and the appeal process pursuant to He-M 401.19.

(c) Suspension of an individual shall not exceed 5 business days except as allowed by (i) below;

(d) A CMHP or community mental health provider shall maintain documentation in the record of an individual who has been suspended that:

(1) The individual has been notified of the suspension; and

(2) The suspension has been approved by the CMHP's or community mental health provider's chief executive officer or designee.

(e) An individual other than an individual on conditional discharge from New Hampshire hospital in accordance with He-M 609 may be terminated from a CMHP or community mental health provider except with respect to the services set forth in (a) above if:

(1) The individual:

a. Endangers or threatens to endanger, other individuals or staff requiring intervention of law enforcement; and

b. The clinical circumstances would not appropriately result in an involuntary emergency admission pursuant to RSA 135-C:27-33;

(2) The individual is no longer benefiting from the services they are receiving;

(3) The individual refuses to pay for the services that they are receiving despite having the financial resources to do so; or

(4) The individual refuses to apply for benefits that could cover the cost of the services that they are receiving despite the fact that the consumer is or may be eligible for such benefits.

(f) A termination from CMHP or community mental health provider services shall not occur unless:

(1) It has been approved by the CMHP or community mental health provider's chief executive officer or designee; and

(2) At least 30 calendar days prior to the termination, the CMHP or community mental health provider has given a written and verbal notice to the individual and guardian, if any, that:

a. Specifies the effective date of termination;

b. Lists the clinical or management reasons for termination; and

c. Explains the right to appeal and the appeal process pursuant to He-M 401.19.

(g) A CMHP or community mental health provider shall document in the record of an individual who has been terminated that:

(1) The individual has been notified of the termination; and

(2) The termination has been approved by the CMHP or community mental health provider's chief executive officer or designee.

(h) A CMHP or community mental health provider shall notify the bureau of mental health services or the bureau for children's behavioral health services, (as applicable), in writing, of all suspensions and all terminations of service.

(i) If an individual is endangering or threatens to endanger other individuals or staff, requiring law enforcement intervention, and 30 calendar days' notice would place at risk those threatened, the CMHP or community mental health provider may immediately suspend the individual from services other than crisis or emergency services and start the termination process unless the individual is on a conditional discharge from New Hampshire hospital.

He-M 309.098 Individual Rights in Community Residences.

(a) In addition to the foregoing rights, individuals in community residences shall also have the following rights:

- (1) The right to a safe, sanitary, and humane living environment;
- (2) The right to freely and privately communicate with others, including:
 - a. The right to send and receive unopened and uncensored written and electronic correspondence;
 - b. The right to have reasonable access to telephones and to be allowed to make and to receive reasonable numbers of telephone calls except that community residences may require an individual to reimburse them for the cost of any long-distance calls made by the individual;
 - c. The right to receive and to refuse to receive visitors except that community residences may impose reasonable restrictions on the number and time of visits in order to ensure effective provision of services; and
 - d. The right to engage in social, recreational, and religious activities including the provision of regular opportunities for individuals to engage in such activities;
- (3) The right to privacy, including the following:
 - a. The right to courtesies such as knocking on closed doors before entering and ensuring privacy for telephone calls, electronic communications, and visits;
 - b. The right to opportunities for personal interaction in a private setting except that any conduct or activity which is illegal shall be prohibited; and
 - c. The right to be free from searches of their persons and possessions except in accordance with applicable constitutional and legal standards;
- (4) The right to personal choice, including the following:
 - a. The right to keep and wear their own clothes;
 - b. The right to reasonable space for personal possessions;
 - c. The right to keep and to read materials of ~~their his or her~~ own choosing;

- d. The right to keep and spend their own money; and
- e. The right to be compensated for any work performed and the right not to work, except that:
 - 1. Individuals may be required to perform personal housekeeping tasks within the individual's own immediate living area and equitably shared housekeeping tasks within the common areas of the community residence, without compensation; and
 - 2. Individuals may perform vocational learning tasks or work required for the operation or maintenance of a community residence, if the work is consistent with their individual service plans and the individual is compensated for work performed according to laws, rules, and regulations set by the state and federal governments; and
- (5) The right to be reimbursed for the loss of any money held in safekeeping by the community residence.

(b) Nothing in He-M 309.098 shall require a community residence to have policies governing the behavior of the residents.

(c) Individuals and guardians shall have the right to be informed of any house policies prior to admission to the community residence.

(d) Residents shall have the right to participate in the development and modification of any house policies. Residents shall formally review the house policies at least annually.

(e) House policies shall be posted by community residences.

(f) House policies shall be in conformity with He-M 309.

(g) House policies shall be periodically reviewed for compliance with He-M 309 in connection with [community mental health program-CMHP or community mental health provider](#), and department site visits.

APPENDIX

RULE	SPECIFIC STATE OR FEDERAL STATUTE OR REGULATIONS THE RULE IMPLEMENTS
He-M 309.01	RSA 135-C:13; RSA 135-C:18; RSA 135-C:56; RSA 135-C:57; and RSA 135-C:59
He-M 309.02	RSA 135-C:2; RSA 135-C:13; RSA 135-C:18; RSA 135-C:56; RSA 135-D:57; and RSA 135-C:59
He-M 309.03	RSA 135-C:59
He-M 309.04	RSA 135-C:56
He-M 309.05	RSA 135-C:56; RSA 135-C:57; RSA 135-C:19-a
He-M 309.06	RSA 135-C:57
He-M 309.07	RSA 135-C:18
He-M 309.08	RSA 135-C:58