

**HEALTH AND SAFETY RULES
FOR FAMILY, FRIEND, OR NEIGHBOR
LICENSE-EXEMPT CHILD CARE PROVIDERS
RECEIVING
CHILD CARE SCHOLARSHIP**



Department of Health and Human Services
Division of Economic and Housing Stability
Bureau of Child Development & Head Start Collaboration

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

Statutory Authority: [RSA 161:2, XII](#)

He-C 6917.01 PURPOSE.

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

He-C 6917.02 SCOPE.

This part shall apply to any person who is enrolled as a license-exempt provider pursuant to [He-C 6914](#) to provide child day care services to children and families receiving child care scholarship.

He-C 6917.03 DEFINITIONS.

- (a) “Child” means “child” as defined in RSA 170-E:2, II, namely “any person under eighteen years of age.”
- (b) “Child care” means the act of providing supervision, food, activity, and rest for a child for any portion of a 24-hour day, in order to promote healthy child development and assist the child’s parent(s), in preparing for, securing, or maintaining employment or employment related education or training, for an approved activity that supports service or case plan goals.
- (c) “Child Care Resource and Referral” means an agency contracted with the department to provide free child care resource and referral services to families seeking child care.
- (d) “Commissioner” means “the commissioner of the department of health and human services,” as defined in RSA 170-E:2, V.
- (e) “Corporal punishment” means the use of physical force, physical restraint, or physical actions against a child as a means of discipline.
- (f) “Department” means “the department of health and human services” as defined in RSA 170-E:2, VII.
- (g) “Developmentally appropriate” means actions, environment, equipment, supplies, communications, interactions, or activities that are based on the developmental level and abilities, the family culture, and the individual needs of each child in care.
- (h) “Enrolled child care provider” means a child care provider who has met the requirements in He-C 6914 and is authorized to receive payment for services from the department. The term includes “registered provider” as defined in RSA 170-E:6-a.
- (i) “Foster parent” means an individual who has a license or permit for foster family care, pursuant to He-C 6446.
- (j) “Infant” means a child from the time of birth through the age of eighteen months old.

- (k) "In-home provider" means a person who is:
 - 1. Providing child care in a private home;
 - 2. Exempt from licensure pursuant to RSA 170-E:3;
 - 3. An enrolled child care provider pursuant to He-C 6914; and
 - 4. One of the following program types:
- (l) "Relative provider" where "the only children in care are the provider's own children, children related to the provider, and children residing with, the provider" pursuant to, 170-E:3(l); or
- (m) "Friend or neighbor provider" where "any number of the provider's own children, whether related biologically or through adoption, and up to three additional children are cared for regularly for any part of the day, but less than 24 hours, pursuant to 170-E:3.
- (n) "Legal guardian" means an individual who is given legal authority by a court and charged with the duty to provide care, custody, and supervision of the child or children.
- (o) "Monitoring statement" means a written report issued by the department detailing the findings of a monitoring visit conducted by the department.
- (p) "Monitoring visit" means a visit made to the in-home provider by the department for the purpose of assessing compliance with He-C 6914, He-C 6917, and 45 CFR Part 98.41 and 98.42.
- (q) "NH Professional Registry" means NH's password-protected electronic database designed to support and track professional development for the early childhood and afterschool workforce pursuant to He-C 6914.04(g) and (h).
- (r) "Parent" means an individual who has a birth, adoptive, or step-parent relationship to the child or children, a foster parent as defined in (k) above, or a legal guardian as defined in (n) above.
- (s) "Program" means a license-exempt child care provider pursuant to RSA 170-E: 3, l, (c), (f), (g) and (h). The term includes "in-home provider" and "facility based program."
- (t) "Program improvement plan" means a written plan developed by a provider, approved by the department in response to a monitoring statement assessment, and stating how the program will come into compliance with the rules.
- (u) "Related" means "related" as defined in RSA 170-E:2, XIII, namely, "any of the following relationships by blood, marriage, or adoption: parent, grandparent, brother, sister, stepparent, step grandparent, stepbrother, stepsister, uncle, aunt, niece and nephew, first cousin, or cousin."
- (v) "Supervision" means being present with children in child care, knowing their number, identities, and whereabouts, observing their activities, and being in close enough proximity to have all children within sight, or hearing, and allowing intervention, if needed, to safeguard each child from accident or injury.
- (w) "Toddler" means a child 19 months through the age of 35 months old.

He-C 6917.04 PROFESSIONAL DEVELOPMENT.

- (a) Every twelve- month period, beginning on the date of enrollment, the provider shall:

1. Complete two hours of annual professional development in any of the health and safety topics pursuant to in He-C 6914.04(d)(1)-(11), (e) (1)-(2);
 2. Complete two hours of annual professional development in any of the topic areas listed in accordance with He-C 6914.05 (a),(3)(a)-(l); and
 3. Upload documentation of completion of professional development in (a) (1) and (2) above to the NH Professional Registry.
- (b) CPR and first aid trainings shall not be counted in the annual required professional development hours specified in (a), (1) and (2) above.
- (c) Providers enrolled with the department prior to October 1, 2017, who have maintained enrollment, shall comply with the requirements in (a)(1) and (2) above by March 30, 2019. Thereafter annual professional development shall be completed by March 30th.

He-C 6917.05 BUILDING AND PHYSICAL PREMISES SAFETY.

- (a) Premises shall be maintained in a neat, clean, and safe condition, and free and clear of excess clutter which restricts children's free movement within the program.
- (b) Programs shall maintain the child care environment free of hazards to children including, but not limited to, the following:
1. Fire hazards;
 2. Electrical hazards;
 3. Cords or strings long enough to encircle a child's neck which pose a strangulation hazard and are accessible to children, including, but not limited to, telephone cords and window blind cords;
 4. Guns, weapons, or live or spent ammunition which are not in locked storage;
 5. Knives and sharp objects unless the object is being used under direct supervision of a provider;
 6. Heavy furnishings or other heavy items that could easily fall on children and would be likely to cause injury;
 7. All windows in areas used by children under five years of age not protected with guards that prevent exit or fall by a child, but that do not block the outdoor light or restrict air flow;
 8. Loose and flaking paint which is accessible to children;
 9. Stairways which are accessible to children younger than three years of age and are not equipped with functional, properly latched safety gates;
 10. Unclean conditions or disrepair which demonstrates a lack of regular cleaning or maintenance;
 11. Damp conditions which result in visible mold or mildew or a musty odor;
 12. The use of trampolines during child care hours, with the exception of small indoor trampolines intended for individual use with direct adult supervision only;

13. Empty plastic bags, or bags which pose a suffocation hazard, which are accessible to children under the age of three years; and
 14. Items labeled “keep out of reach of children” which are accessible to children without the direct supervision of a provider.
- (c) Construction, remodeling, or alteration of structures during child care operations shall be done in a manner as to prevent exposure of children to hazardous or unsafe conditions including, but not limited to, fumes, dust, construction materials, and tools which pose a safety hazard.
- (d) Programs shall ensure that all indoor areas used by children;
1. Have a safe, functioning heating system;
 2. Include protection for children from exposed heat sources which present a hazard, including but not limited to baseboard heaters, radiators, fireplaces, and woodstoves; and
 3. Have working smoke detectors on each level.
- (e) Portable electric space heaters shall:
1. Be inaccessible to children;
 2. Bear the safety certification of a recognized laboratory such as Underwriters Laboratory (UL) or Electro Technical Laboratory (ETL); and
 3. Be installed and operated in accordance with the manufacturer’s specifications.
- (f) Outside areas which are accessible to children shall be free of hazards including, but not limited to, the following:
1. Unprotected pools, wells, or other bodies of water;
 2. Lawn and farm machinery;
 3. Trash, litter, or debris;
 4. Animal feces; and
 5. Other dangerous items or substances.
- (g) In outside areas used by children, stationary play equipment accessible to children shall not be over hard surfaces such as cement or asphalt.
- (h) Play areas shall be enclosed by a fence if they are determined by the department to be unsafe because they are on a roof, or located adjacent to any dangerous area.
- (i) All fencing shall be designed to restrain children who have not yet entered school from climbing out of, over, under or through the fence.
- (j) All swimming pools and wading pools shall be inaccessible to children except during supervised activities.
- (k) Programs shall remove standing water.
- (l) Programs shall have a safe supply of water under pressure available for drinking and household use.

- (m) Programs shall provide at least one toilet and one wash basin.
- (n) Except for potty (toileting) chairs for use by older infants and toddlers, programs shall not use any toilets which are not attached to a functional sewage disposal system.
- (o) During all hours of operation there shall be functional sewage disposal facilities.

He-C 6917.06 HANDLING, STORAGE, AND DISPOSAL OF HAZARDOUS MATERIAL.

- (a) All toxic and flammable materials and tobacco products shall be stored in cabinets which are locked, or secured with child proof latches, or otherwise out of reach of children.
- (b) Pesticides shall not be used in areas used by children while children are present and any treated indoor area shall be aired out per manufacturers' instructions prior to allowing children to return to that area.
- (c) Programs shall adhere to state laws and rules in regards to lead paint and asbestos removal.

He-C 6917.07 EMERGENCY PREPAREDNESS AND RESPONSE PLANNING.

- (a) Providers shall ensure that for each child, upon the child's first day, there is a child registration and emergency information form completed by a parent, on file at the program.
- (b) There shall be a telephone that is operable and accessible during all operating hours for incoming and outgoing calls.
- (c) Pursuant to [45 CFR Part 98.41](#), programs shall develop an emergency operations plan "EOP" which shall include procedures for responding to natural, human-caused, or technological incidences including, but not limited to:
 - 1. Evacuation;
 - 2. Relocation;
 - 3. Shelter-in-place;
 - 4. Lockdown;
 - 5. Communication and reunification with families;
 - 6. Continuity of operations;
 - 7. Accommodations of infants and toddlers;
 - 8. Accommodations of children with disabilities; and
 - 9. Accommodations of children with chronic medical conditions.
- (d) Providers shall practice no less than two components of their EOP with children, when appropriate, but no less than twice per year and maintain a written record of the practiced components.

- (e) If a child is seriously injured while in the care of the provider, including fractures, dislocations, stitches, second or third degree burns, concussions, or loss of consciousness, or requires emergency medical treatment or hospitalization, the provider shall:
 - 1. Notify the child's parent(s) immediately;
 - 2. Notify the department within 48 hours; and
 - 3. Within one week provide to the department a written report which details the nature and circumstances of the serious injury.
- (f) Any occurrence of a missing child shall be reported to emergency police services, or 911, as soon as a provider has determined that the child cannot be promptly located on the premises of the child care program.
- (g) Providers shall report any occurrence of a missing child to the department within 24 hours.
- (h) If a child dies while in childcare, providers shall:
 - 1. Notify emergency personnel and the child's parent(s) immediately;
 - 2. Notify the department of the death within 24 hours;
 - 3. Provide developmentally appropriate information for children and parents regarding the death of the child; and
 - 4. Within 72 hours provide to the department a written report which details the circumstances which led up to the death.
- (i) In addition to the reporting requirements under (g) above, providers shall, upon request, provide the department with any other available information regarding the death.

He-C 6917.08 PREVENTION OF AND RESPONSE TO EMERGENCIES DUE TO FOOD AND ALLERGIC REACTIONS.

- (a) Each child with an allergy shall have a written care plan from the child's physician that includes at a minimum:
 - 1. Instructions regarding the food(s) or other allergens to which the child is allergic and steps to be taken to avoid them;
 - 2. A detailed treatment plan to be implemented in the event of an allergic reaction, including the names, doses, and methods of prompt administration of any medications; and
 - 3. Specific symptoms that would indicate the need to administer one or more medications.
- (b) With permission of the parent or guardian, each child's allergies shall be posted prominently and wherever the child might come in contact with the allergen.
- (c) Providers shall notify the parent(s) immediately of any suspected allergic reactions, as well as the ingestion of or contact with a known allergen even if a reaction did not occur.
- (d) Providers shall contact 911 whenever epinephrine has been administered.

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

He-C 6917.09 ADMINISTRATION OF MEDICATION AND IMMUNIZATIONS.

- (a) Providers shall administer any medication, treatment, or other remedy as required under the provisions of the Americans with Disabilities Act.
- (b) Providers shall only administer medication with signed and dated written instructions for administering the medication from the child's physician, and written permission from the parent.
- (c) In the event of a medication error in the administration of medication, providers shall notify the child's parent(s) immediately.
- (d) For any chronic condition requiring medication that is to be administered for more than twelve months, the written parental authorization specified in (b) above shall be updated annually.
- (e) Providers shall maintain a written log for each dose of medication administered to each child, excluding topical substances.
- (f) In the event of an error documenting the administration of medication, providers shall notify the child's parent(s) by the end of the day in which the error occurred.
- (g) All medication shall be:
 - 1. Inaccessible to children;
 - 2. Stored at the temperature and conditions recommended by the manufacturer or as directed on the prescription label; and
 - 3. Labeled with the child's name to ensure correct identification of each child's medication.
- (h) Medications such as insulin, inhalers and epi pens shall be immediately accessible to providers caring for children requiring such medications.
- (i) All prescription or non-prescription medication and topical substances shall be kept in the original containers or pharmacy packaging.
- (j) Documentation of immunizations, in accordance with [RSA 141-C:20-a](#), [RSA 141-C:20-b](#) and [He-P 301.14](#), shall be on file for each child cared for beginning on the first day the child is in attendance at the program.
- (k) Exemptions from the immunizations required under (j) above shall be in accordance with RSA 141-C:20-c and pursuant to 45 CFR Part 98 for children experiencing homelessness or children in foster care. Providers may enroll children and allow for 60 days for families to obtain and provide documentation of immunizations.
- (l) Providers shall not be required to obtain immunization records for children whose parents object in writing, on the grounds that such immunizations are contrary to their religious beliefs, or for children with medical conditions that contraindicate immunization.

He-C 6917.10 PREVENTION AND CONTROL OF INFECTIOUS DISEASES.

- (a) Providers and children shall wash their hands with liquid soap and warm running water as needed.
- (b) Providers shall wash the hands of infants as necessary to comply with (a) above.
- (c) Providers shall observe each child for symptoms of illness or injury throughout the day and contact the parent(s) if a child has:
 - 1. More than one episode of vomiting in one day;
 - 2. More than one episode of diarrhea in one day;
 - 3. Uncontrolled coughing or wheezing;
 - 4. Skin lesions which have not been diagnosed or treated by a licensed health care practitioner; or
 - 5. An oral temperature of 101 degrees Fahrenheit or higher or an under arm temperature of 100 degrees Fahrenheit or higher combined with any of the following:
 - a. Diarrhea;
 - b. Rash;
 - c. Ear ache;
 - d. Sore throat; or
 - e. Vomiting.
- (d) All foods prepared and served to children shall be free from spoilage, filth, or other contamination.
- (e) Providers shall check children in diapers and change diapers and clothing if they are soiled or wet.
- (f) Programs serving diapered children shall have a diaper changing area which shall:
 - 1. Not be located in kitchens or in food preparation or food service areas or on surfaces where food is prepared or served;
 - 2. Be located near a hand washing sink to allow access for hand washing; and
 - 3. Have a non-porous, washable surface, which shall be disinfected after each diaper change and used exclusively for diaper changing.
- (g) The plastic bag containing the soiled diapers and cleansing articles shall be removed daily, securely closed, and placed outside in covered garbage cans for collection or removal at regular intervals.
- (h) Providers shall clean and disinfect bathroom facilities whenever visibly soiled but at a minimum of at least weekly.
- (i) All bedding used by children in care shall be cleaned at least once a week and more frequently if soiled.
- (j) Providers shall ensure that the presence of pets in the program does not present a hazard to the children.
- (k) When there are pets in a provider's home, providers shall:
 - 1. Ensure dogs and cats have a current vaccination for rabies;
 - 2. Keep litter boxes away from food preparation, or food service areas, or in areas where children play; and

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

He-C 6917.11 FIRST AID AND CPR.

- (a) Providers shall have non-expired first aid supplies adequate to meet the needs of the children in care.
- (b) If a child receives an injury or an incident occurs requiring first aid treatment, medical treatment, or medical consultation, a provider shall inform the child's parent(s) of the injury or illness on the date the child is injured or becomes ill.
- (c) If any child has a serious injury while in child care resulting in medical treatment by a physician, or other health care professional, or requiring hospitalization, or if CPR is performed on a child while in child care, providers shall:
 1. Notify the child's parent(s) immediately;
 2. Notify the department within 48 hours; and
 3. Within one week provide to the department a written report which details the nature and circumstances of the serious injury.
- (d) Providers shall not serve foods which can cause a choking hazard to children younger than three years of age or to children who have been identified as having chewing and swallowing difficulties, including but not limited to:
 1. Spoonful's of peanut butter;
 2. Whole or rounds of hot dogs or sausage;
 3. Whole grapes;
 4. Hard candy and chewing gum;
 5. Raw carrot rounds, peas or celery;
 6. Chips or hard pretzels;
 7. Marshmallows;
 8. Nuts or seeds;
 9. Popcorn; and
 10. Other hard or cylinder shaped foods that may pose a choking hazard.

He-C 6917.12 CHILD DEVELOPMENT.

- (a) During the operating hours of the program, parent(s) shall have an opportunity to communicate with providers.
- (b) Children shall be within sight or hearing of child care providers at all times.
- (c) Provided that written-permission is on file a provider may allow school-age children 72 months and older, who are enrolled in a full day school program, to play outside when a provider is inside or to leave the premises of the program, unsupervised.

- (d) Providers shall not leave infants or toddlers unattended in seating, carrying or in holding devices such as car seats or infant seats placed on counter tops, tables or other elevated surfaces.
- (e) Providers shall provide toys, equipment, and learning materials that are:
 - 1. Available and accessible to children;
 - 2. Safe and in good repair; and
 - 3. Cleaned on a regular basis.
- (f) Infants shall not be placed in any equipment, which requires them to support their heads on their own if they have not yet acquired that ability.
- (g) Baby walkers with wheels shall be prohibited in all programs.
- (h) Providers shall not allow children younger than three years of age to have access to toys, toy parts, and other materials which pose a choking risk or are small enough to be swallowed, such as, but not limited to, coins, balloons, or exposed foam padding.
- (i) All media, including television, video, or electronic devices shall be age and developmentally appropriate.
- (j) Providers shall guide children's behavior using the following techniques:
 - 1. Redirecting a child's attention to a desirable activity when a child is engaging in unacceptable behavior;
 - 2. Providing positive guidance;
 - 3. Establishing developmentally appropriate rules or limits for acceptable behavior which are fair, consistently applied, realistic, and designed to promote cooperation and respect;
 - 4. Providing children with reasons for limits and rules;
 - 5. Giving positively worded directions;
 - 6. Acting as a role model to demonstrate desired behavior and problem-solving skills and then redirecting children to acceptable behavior;
 - 7. Arranging equipment, materials, activities, and schedules in a way that promotes desirable behavior; and
 - 8. Implementing safe, logical, and natural consequences related to the misbehavior and enforcing those consequences as soon as possible after the misbehavior has occurred.
- (k) Separation, or time out, shall only be used as a method to enable a child to regain control of his or her self and not as punishment, as follows:
 - 1. Separation shall be brief and appropriate to the child's developmental level and circumstances;
 - 2. When a child is separated from the group, he or she shall be:
 - a. Able to see and hear the other children; and
 - b. Within hearing and sight of a provider.
- (l) Providers and household members shall not:

1. Abuse or neglect children;
 2. Use corporal punishment;
 3. Attempt to control children's behavior by actions which are damaging to children, including but not limited to:
 - a. Requiring children to stand or sit facing walls or corners;
 - b. Verbally shaming children;
 - c. Belittling children;
 - d. Ridiculing children;
 - e. Yelling at children;
 - f. Name calling;
 - g. Making verbal threats to children;
 - h. Confining infants or toddlers in high chairs or other seating devices or equipment, which restricts their movement, as a disciplinary technique; and
 - i. Placing or confining children in equipment that is not appropriate for their age, including but not limited to cribs, playpens, or highchairs;
 4. Withhold food from children or forcibly feed children;
 5. Discipline children for not eating;
 6. Shame, humiliate, or discipline any child for toileting accidents or lapses in toileting habits;
 7. Use isolation as a form of discipline;
 8. Prohibit children from using the toilet as a form of discipline;
 9. As a means of discipline, require children to:
 - a. Sleep or rest; or
 - b. Go to their cot, mat, crib, bed, or playpen or other sleeping or rest facilities; and
 - c. Discipline a child for not sleeping at rest or nap time.
- (m) Programs shall develop and implement a written policy to address the limitations of expelling children from the child care program for challenging behaviors.
- (n) The policy in (m) above shall address at a minimum:
1. The steps the program will take to assist the child in maintaining enrollment prior to expelling the child for challenging behaviors;
 2. Parent notification requirements regarding their child's challenging behavior; and

3. The responsibilities of the program if the challenging behavior results in a serious safety risk to the child or others within the program.
- (o) The written policy in (m) above shall be provided to parents at enrollment.
- (p) The expulsion policy shall only apply when addressing a child's behavior and not a parent's misconduct or the parent's failure to comply with other rules or laws.

He-C 6917.13 PREVENTION OF SUDDEN INFANT DEATH SYNDROME AND USE OF SAFE SLEEPING PRACTICES.

- (a) Providers shall consult with the parent(s) of each child and observe children on an ongoing basis to determine each child's resting or napping needs.
- (b) To reduce the risk of Sudden Infant Death Syndrome (SIDS), infants up to twelve months of age shall be placed on their backs to sleep in a crib or playpen, unless there are written medical orders from the infant's primary health practitioner requiring alternate positioning.
- (c) If an infant up to twelve months falls asleep in any place that is not a safe sleep environment, including swings, bouncy seats, or a car safety seat, a provider shall move the infant and place them on their back in their crib or playpen.
- (d) There shall be an individual crib or playpen for each child twelve months of age and younger, except for siblings for whom co-sleeping is part of their family culture and written authorization is given by the children's parent(s) and the child's primary health care provider.
- (e) No crib shall be used unless manufactured on or after June 28, 2011 or, if manufactured prior to that date, has a Children's Product Certificate (CPC) or test report from a consumer product safety commission (CPSC) accepted third-party lab, provided by the manufacturer documenting the crib's compliance as required by 16 CFR 1219 and required by 16 CFR 1219 and 1220.
- (f) Cribs and playpens required under (e) above shall:
 1. Be free of cracked or peeling paint, splinters, and rough edges;
 2. Have no more than 2 $\frac{3}{4}$ inches between slats;
 3. Have no missing, loose, broken, or improperly installed parts, screws, brackets, baseboards, or other loose hardware, or damaged parts on the crib or mattress supports;
Not have corner posts which extend more than 1/16 of an inch above the end panels;
 4. Not have holes or tears in the mesh walls or in the material that connects the walls to the bottom of the crib or playpen;
 5. Have properly fitted sheets which do not have excess fabric or that compress the mattress; and
 6. Have mattresses which:
 - a. Are in good repair, and free of rips or tears; and

- b. Fit the crib or playpen so that the space between the mattress and crib or playpen is not more than two adult fingers wide and does not create a suffocation hazard.
- (g) Cribs or playpens used by infants up to twelve months shall not have bumper pads, blankets, flat sheets, pillows, quilts, comforters, sleep positioners, or any soft items or toys.
- (h) Providers who smoke shall wash hands and change into fresh clothing, or remove smoke contaminated outerwear, prior to caring for the child to reduce the exposure to third hand smoke.
- (i) When providers place an infant in a crib or play pen for sleep, the provider should check to ensure that the temperature in the room is comfortable for a lightly clothed adult, check the infants to ensure that the infant is comfortably clothed and not overheated or sweaty, and that bibs and garments with ties or hoods are removed.
- (j) Children older than three months shall not be swaddled or placed in restrictive or weighted sleep suits or devices unless there are written medical orders from the child's primary health practitioner.
- (k) A provider may use electronic monitors to supervise sleeping children provided that:
 - 1. A signed, and dated, authorization stating that parents are aware of and agreeable to the use of an electronic monitor as a means of supervising their child when he or she is asleep is obtained from the parent(s);
 - 2. Sounds from the monitor shall be easily heard by a provider;
 - 3. Every ten minutes a provider shall observe the sleeping children, in person, to ensure that each child is safe and comfortable; and
 - 4. Video monitors shall not replace a physical check by a provider.

He-C 6917.14 PREVENTION OF SHAKEN BABY SYNDROME AND ABUSIVE HEAD TRAUMA AND RECOGNITION AND REPORTING OF CHILD ABUSE AND NEGLECT.

- (a) Providers shall not shake or perform any action likely to cause abusive head trauma, but rather use strategies to cope with a crying, fussing, or distraught infant.
- (b) Providers shall allow a parent access to his or her child(ren) at all times while the child(ren) is in the child care provider's care, unless allowing access is contrary to a court order or a court-ordered parenting plan pursuant to He-C 6914.07 (a).
- (c) Providers shall take prompt action to protect children from abuse, neglect, corporal punishment, or other mistreatment by any individual.
- (d) Any provider, or other person involved with a program who suspects that child is being abused or neglected shall be a mandated reporter in accordance with RSA 169-C:29 and shall report the suspected abuse to the Division for Children, Youth and Families at **1-800-894-5533**.
- (e) When any child in child care is the victim of corporal punishment, or has been physically or mentally injured because he or she was not adequately supervised, or when the health, safety, or well-being of any child has been otherwise seriously jeopardized due to a program's non-compliance with any of the provisions of He-C 6916, the enrolled child care provider or his or her designee shall fully inform the child's parent(s) of the details of the

punishment, or of the incident which injured their child or jeopardized their child's health, safety, or well-being, including the following details:

1. The name of who was involved in, and who witnessed the incident, while keeping the identities of other children confidential;
 2. What occurred prior to and following the incident;
 3. When and where the incident occurred; and
 4. Any action that has been or will be taken by the program as a result of the incident.
- (f) The details of the incident outlined in (e) above shall be provided to the parent(s) of the child or children involved in writing by the next business day.

He-C 6917.15 APPROPRIATE PRECAUTIONS IN TRANSPORTING CHILDREN.

- (a) Except for relative providers, providers who wish to take children on routine, unplanned local trips, or scheduled field trips shall obtain a signed and dated permission slip from each child's parent, which specifies all approved destinations and activities. This permission slip shall include the destination of the trip(s) and the estimated time that the parent(s) can expect the child to return to the program.
- (b) During any field trip, providers shall have access to a phone in case of emergency and provide the phone number to parents.
- (c) Children who are transported by the program shall be transported in vehicles which are:
 1. Registered, insured, and inspected in accordance with the laws and rules of the State of New Hampshire;
 2. Driven by individuals who are at least eighteen years of age and hold a valid driver's license; and
 3. Maintained in a safe operating condition.
- (d) Providers shall be prohibited from using mobile electronic devices while operating a vehicle to transport children, including hands-free operation.
- (e) The number of persons who are transported by the program shall be limited to the number of persons the vehicle is designed to carry.
- (f) Children younger than five years of age who are transported by the program or during any program sponsored activity shall not be transported in any vehicle exempted from seat belt requirements under RSA 265:107-a, II.
- (g) In all programs individual, age appropriate child restraints or seat belts shall be provided for and used by each child in accordance with RSA 265:107-a.

He-C 6917.16 MONITORING VISITS, MONITORING STATEMENT, PROGRAM IMPROVEMENT PLAN, AND ENFORCEMENT.

- (a) The department shall conduct an announced monitoring visit prior to enrollment.

- (b) The department shall conduct an annual announced visit for enrolled child care providers to maintain enrollment.
- (c) The department shall issue a monitoring statement to the program for each monitoring visit.
- (d) At the close of any visit, when an investigation is concluded, or as soon as possible thereafter, the department shall review with the program a summary of each violation of He-C 6917 found during the visit.
- (e) The department shall issue the monitoring statement via email if a valid email address has been provided by the program or by U.S. mail if an email address has not been provided.
- (f) The provider shall complete a program improvement plan for each violation included on the monitoring statement, which shall include the following:
 - 1. The action the provider has taken or will take to correct the violation(s);
 - 2. The steps the provider will take to ensure compliance with these rules and any cited statutes in the future;
 - 3. The date by which each of the violations was corrected or will be corrected;
 - 4. The interim measures the provider has implemented to protect the health and safety of children, when the violation cannot be corrected immediately; and
 - 5. The dated signature of the provider.
- (g) The provider shall develop program improvement plans and return them to the department in accordance with the following:
 - 1. The program improvement plan shall be submitted to the department within three weeks of the date the monitoring statement is sent out by the department; and
 - 2. The names of individuals, including children, shall not be included in the program improvement plans.
- (h) When the program improvement plan submitted to the department by the provider in accordance with (d) and (e) above is not acceptable for making the improvement, the department shall issue a directed program improvement plan to the provider to ensure compliance with these rules.
- (i) Notwithstanding (d), (e), and (f) above, when the department determines that there is an imminent threat to the health or safety of children, it shall issue a program improvement plan to the provider, without first offering the provider an opportunity to complete a program improvement plan.
- (j) When the provider receives a program improvement plan issued by the department, in accordance with (h) and (i) above, it shall:
 - 1. Add any additional details regarding the action plans the provider feels are necessary; and
 - 2. Complete and return the program improvement plan in accordance with (e) above.
- (k) Notwithstanding (a) through (g) above, when a provider has repeatedly violated standards set forth in this rule or has violated a rule or statute which resulted in physical or mental injury to a child or caused a child to be in danger of physical or mental injury, the department shall initiate enforcement action without first requesting that the provider submit a program improvement plan.
- (l) A provider shall comply with all approved program improvement plans.

- (m) A provider shall:
 - 1. Maintain on file on the premises and make available to clients and perspective clients, a copy of the monitoring statement and program improvement plan; and
 - 2. Not alter the, monitoring statement, or program improvement plan issued by the department.
- (n) Except for relative providers and children being cared for in their own home, the department shall post on the department website the monitoring statement and program improvement plan within five days after it is issued.
- (o) The department shall conduct follow up monitoring visits as needed to monitor the implementation of the program improvement plan.
- (p) The department shall revoke or deny a new applicant or renewal as an enrolled child care provider in accordance with He-C 6912, He- C 6914, He- C 6918, and He-C 6920.

He-C 6917.17 WAIVER OF RULES.

- (a) A provider wishing to request a waiver of a rule shall provide in writing or electronically the following information:
 - 1. The provider name, address, phone number, and Bridges resource identification (ID) number assigned by the department for electronic payments;
 - 2. The rule numbers for which the waiver is being requested;
 - 3. A brief explanation of the reason for the waiver, the length of time for which the waiver is requested, and any effect the granting of the waiver will have on the health and safety of the children in the program;
 - 4. The number and age range of children who will be affected by the waiver;
 - 5. The signature of the enrolled child care provider;
 - 6. Signatures of parents or copy of a notice which has been shown to, or mailed to each parent, explaining the specifics of the waiver request and informing parents that they may call the department if they have concerns about the requested waiver, and
 - 7. The plan for future compliance after the waiver period is over.
- (b) A waiver shall be granted to the applicant or enrolled provider if the department determines that the alternative proposed by the applicant or enrolled provider:
 - 1. Meets the objective or intent of the rule;
 - 2. Does not negatively impact the health, safety, or well-being of the children; and
 - 3. Does not negatively impact the operation of the program.
- (c) When a waiver is approved, the program's subsequent compliance with the alternatives approved in the waiver shall be considered equivalent to complying with the rule from which the waiver was sought.
- (d) The department shall not approve any request for a waiver of any of the provisions relevant to state or federal law or of any rules of other state agencies which are referred to in this chapter.

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

He-C 6917.18 COMPLAINTS AND INVESTIGATIONS.

- (a) The department shall respond to any complaint that meets the following conditions:
1. The alleged violation(s) occurred not more than six months prior to the date the department was made aware of the allegation(s);
 2. The complaint is based upon the complainant's first-hand knowledge regarding the allegation(s) or on information reported directly to the complainant by a child who has firsthand knowledge regarding the allegation(s);
 3. There is sufficient specific information for the department to determine that the allegation(s), if proven to be true, would constitute a violation of any of the provisions of He-C 6917; or
 4. The complaint is received from any source and alleges a violation that occurred at any time if the complaint alleges:
 - a. Physical injury or abuse;
 - b. Verbal or emotional abuse; or
 - c. The danger of physical injury to one or more children.
- (b) A complaint investigation shall be conducted when the department receives a complaint which meets the conditions specified in (a) above and which contains an allegation of violation of He-C 6917.
- (c) When the complaint is determined to be founded, a monitoring statement shall be issued listing the violations found as a result of the investigation and any other violations found during the visit, which shall be considered and treated as a finding of a complaint visit.
- (d) When the complaint is determined to be unfounded, a notice shall be sent to the provider advising that the complaint was unfounded.

He-C 6917.19 CONFIDENTIALITY

- (a) Except for law enforcement agencies or in an administrative proceeding against the applicant or enrolled provider, the department shall keep confidential any information collected during an investigation, unless it receives an order to release, destroy, or take any action relating to the information from a court of competent jurisdiction.
- (b) When the department determines any child was the victim of corporal punishment, or other harsh punishment or treatment, or has been physically or mentally injured because he or she was not supervised, or any child's health, safety, or well-being was otherwise jeopardized due to provider's non-compliance with He-C 6917, the department shall contact the child's parents to ensure that the provider has fully informed the parents about the corporal punishment, or other harsh punishment or treatment, or the incident which injured their child or placed their child at risk, in accordance with He-C 6917.14 (e).
- (c) A provider shall maintain all records, whether in electronic or paper format, required by He-C 6917:
 - 1. On the premises; and
 - 2. Accessible and available for review by the department, upon request, for one year, unless otherwise specified.
- (d) A provider shall keep confidential all records required by the department pertaining to the admission, progress, health, and discharge of children under their care and all facts learned about children and their families with the following exceptions:
 - 1. A provider shall allow the department access to all records that are required by department rule or state statute to keep; and
 - 2. A provider shall release information regarding a specific child only as directed by a parent of that child, or upon receipt of written authorization to release such information, signed by that child's parent.
- (e) Any provider shall not:
 - 1. Make false or misleading statements to the department, whether verbal or written; or
 - 2. Falsify any documents, other written information, or reports issued by or required by the department under He-C 6910, He-C 6912, He-C 6914, or He-C 6918.
- (f) In addition to (c) above, a provider shall discuss or share information regarding the admission, progress, behavior, health, or discharge of a child with the child's parent(s) in a manner that protects and maintains confidentiality for both the child and the child's parent(s).