

He-C 6916 and He-C 6917 Health and Safety Rules for Facility-Based and In-Home License-Exempt Child Care Providers Receiving Child Care Scholarship

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PART He-C 6916 HEALTH AND SAFETY RULES FOR FACILITY-BASED LICENSE-EXEMPT CHILD CARE PROVIDERS RECEIVING CHILD CARE SCHOLARSHIP

Statutory Authority: RSA 161:2, XII, RSA 161:4-a, III

He-C 6916.01 Purpose. The purpose of this part is to set forth the minimum standards for health and safety requirements for license-exempt child care providers who provide child day care services for children and families receiving child care scholarship, pursuant to RSA 170-E:6-a, RSA 170-E:3, I(f) and (g), and 45 CFR Part 98.41 and 98.42.

He-C 6916.02 Scope. This part shall apply to any license-exempt facility-based child care program providing child day care services to families receiving child care scholarship, pursuant to He-C 6914, and is exempt from licensure, pursuant to RSA 170-E:3, I(f) and (g).

He-C 6916.03 Definitions.

(a) “Authorized representative” means an individual who is designated or authorized by a child care provider to act on behalf of that provider in matters related to billing the department of health and human services (DHHS) for child care services provided, and is not the parent of a child in the facility-based program’s care who is receiving child care scholarship.

(b) “Caretaker relative” means a relative, who is not the biological or adoptive parent of a child, but is providing care and supervision of the child in the assistance group.

(c) “Child” means “child” as defined in RSA 170-E:2, II, namely “any person under 18 years of age.”

(d) “Child care” means the act of providing supervision, food, activity, and rest for a child for any portion of a 24-hour day apart from the child’s parent, caretaker relative, or legal guardian, in order to promote healthy child development and assist the child’s parent, caretaker relative, or legal guardian in preparing for, securing, or maintaining employment or employment-related education or training.

(e) “Commissioner” means “the commissioner of the department of health and human services,” as defined in RSA 170-E:2, V.

(f) “Corporal punishment” means the intentional infliction of physical pain by any means for the purpose of punishment, correction, discipline, instruction, or any other reason.

(g) “Department” means “the department of health and human services” as defined in RSA 170-E:2, VII.

(h) “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.

(i) “Enrolled child care provider” means a child care provider who has met the requirements found in He-C 6914 and is authorized to receive payment for services from the department. “Facility-based program” or “program” means a license-exempt child care provider, pursuant to RSA 170-E:3, I (f) and(g), that is enrolled as a child care provider pursuant to He-C 6914.

(j) “Foster parent” means an individual who has a license or permit for foster family care, pursuant to He-C 6446.

(k) “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 a child.

(l) “Monitoring statement” means a written report issued by the department detailing the results of a monitoring visit conducted by the department.

(m) “Monitoring visit” means “monitoring visit” as defined in RSA 170-E:2, X, namely “a visit made to

the child day care agency by department personnel for the purpose of assessing compliance with the standards set by rule adopted by the commissioner pursuant to RSA 541-A.”

(n) “NH professional registry” means New Hampshire’s password-protected electronic database designed to support and track professional development for the early childhood and school age child care workforce pursuant to He-C 6914.04(k).

(o) “Parent” means an individual who has a birth, adoptive, or stepparent relationship to the child, a foster parent as defined in (k) above, a legal guardian as defined in (l) above, or a caretaker relative as defined in (b) above.

(p) “Program improvement plan” means a written plan, developed by a program, and approved by the department, in response to a monitoring statement, stating how the program will come into compliance with the rules.

(q) “Staff” means the employees of a facility-based program who provide supervision of children or who are required to meet staff-to-child ratios.

(r) “Supervision” means being present with children in child care, knowing the identities of children in care, the number of children present and their whereabouts, observing their activities, and being in close enough proximity to have all children within sight or hearing allowing intervention, if needed, to safeguard each child from accident or injury.

He-C 6916.04 Pre-Service Trainings and Annual Professional Development.

(a) All staff shall complete pre-service trainings in accordance with He-C 6914.04.

(b) Annual professional development shall be completed in accordance with He-C 6914.04, in that all staff shall:

(1) Complete 2 hours of professional development in any of the health and safety topics listed in He-C 6914.04(e) and He-C 6914.04(h);

(2) Complete 2 hours of professional development in any of the topics listed in He-C 6914.05(a)(3); and

(3) Upload documentation of completion of professional development in (b)(1) and (2) above to the NH professional registry.

(c) For staff hired on or prior to the date that the facility-based program initially enrolls with DHHS to receive child care scholarship pursuant to He-C 6914, the annual period for professional development shall begin on the DHHS enrollment date.

(d) For staff hired after the date that the facility-based program initially enrolls with DHHS to receive child care scholarship pursuant to He-C 6914, the annual period for professional development shall begin on the date of hire of each individual staff person.

He-C 6916.05 Building and Physical Premises Safety.

(a) Both indoor and outdoor premises shall be safe, clean, free of clutter, and in good repair.

(b) Programs shall maintain the child care environment and ensure the indoor space is:

(1) Free from electrical hazards, such as overloaded outlets or extension cords, frayed, cracked, or crimped cords, or unprotected outlets;

(2) Free from fire hazards;

(3) Well-ventilated by means of unobstructed mechanical ventilation system or open screened window;

- (4) Free from guns, weapons, or live or spent ammunition which are not in locked storage;
- (5) Free from accessible knives and sharp objects unless the object is being used under the direct supervision of a staff member;
- (6) Free from heavy furnishings or other heavy items that could easily tip or fall on children and would be likely to cause injury;
- (7) Free from accessible loose and flaking paint;
- (8) Well-lit to allow for the supervision of children and for child care staff and children to move about safely;
- (9) Free from damp conditions which result in visible mold, mildew, or a musty odor;
- (10) Free from poisonous plants;
- (11) Free from trampoline use during child care hours, with the exception of small indoor trampolines intended for individual use with direct staff supervision only; and
- (12) Free from accessible items labeled “keep of out of reach of children” unless the item is non-toxic and being used under the direct supervision of a staff member.

(c) All windows used for ventilation shall include screens in good repair, to prevent insects from entering the building. Windows and glass doors shall be constructed, adapted, or adjusted via the use of window guards or other means to prevent injury to children.

(d) Stairways with more than 3 steps shall be equipped with handrails.

(e) 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.

(f) 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.

(g) 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.

(h) Outside areas which are accessible to children shall be free from hazards including, but not limited to:

- (1) Unprotected pools, wells, or other bodies of water;
- (2) Lawn and farm machinery;
- (3) Trash, litter, or debris;
- (4) Animal feces; and

(5) Any other dangerous items or substances.

(i) Fencing shall enclose all play areas if the department determines the play area is unsafe because it is located adjacent to:

- (1) A street or road;
- (2) A swimming pool or other body of water, including a river, pond, or stream;
- (3) An active railroad track or crossing;
- (4) Sharp inclines or embankments; or
- (5) Any other dangerous area.

(j) All fencing required by the department or otherwise intended to limit children's access to a defined area shall:

- (1) Have no gaps greater than 4 inches and be designed to restrain children from climbing out of, over, under, or through the fence; and
- (2) Either:
 - a. Be equipped with a child proof self-latching device on any gates leading to an entrance or egress; or
 - b. Be equipped with a child proof lock if the area is determined to be hazardous to children as determined by the licensing coordinator during the monitoring visit as described in He-C 6916.16.

(k) In outside areas, stationary play equipment accessible to children shall not be over hard surfaces such as cement or asphalt.

(l) All swimming pools and wading pools shall be inaccessible to children except during supervised activities.

(m) Wading pools shall:

- (1) Be emptied and cleaned after each use;
- (2) Be stored so that water does not collect in them; and
- (3) Not contain water that is more than 10 inches deep.

(n) Programs shall have a safe supply of water under pressure available for drinking and program use.

(o) Programs shall not use portable toilets, chemical toilets, or any other toilets which are not attached to a functional sewage disposal system.

(p) During all hours of operation there shall be functional sewage disposal facilities.

(q) Smoking shall not be permitted inside the building at any time.

(r) Staff who smoke on their breaks shall:

- (1) Not smoke in view of children;
- (2) Wash their hands prior to returning to work; and

(3) Change into fresh clothing, or remove smoke-contaminated outerwear prior to returning to work to reduce exposure to third-hand smoke.

He- C 6916.06 Handling, Storage, and Disposal of Hazardous Materials.

(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 must be aired out per manufacturers' instructions prior to allowing children to return to that area.

(c) Programs shall adhere to state and federal rules and regulations in regards to lead paint and asbestos removal.

(d) Programs serving diapered children and children who are not toilet trained shall have a designated diaper changing area, which shall:

(1) Be located adjacent to or in close proximity to a designated handwashing sink to allow access for handwashing without having to open doors or gates or have physical contact with other children;

(2) Have a non-porous washable surface, which shall be used exclusively for diaper changing and sanitized after each diaper change;

(3) Contain a covered, hands-free receptacle, lined with a plastic bag, and located within the reach of the diaper changing area for disposal of soiled disposable diapers and cleansing articles; and

(4) Not be located in kitchens or in food preparation or food service areas, or on surfaces where food is prepared or served.

He-C 6916.07 Emergency Preparedness and Response Planning, and Practice Drills.

(a) Programs shall ensure that for each child, upon the child's first day in attendance in the program, there is a "Child Care Registration and Emergency Information for License Exempt Programs" (May 2023) form completed and signed by the parent, on file, which contains:

(1) Full legal name of the child;

(2) Child's date of birth;

(3) Date of enrollment in the program;

(4) The name, physical address, and mailing address of the parent responsible for the child;

(5) Telephone numbers for the child's parent(s) and instructions as to how the parent(s) can be contacted during the hours that the child is at the program;

(6) Email addresses for the parent(s), if available;

(7) The name, address, telephone number, and relationship of at least one person who will assume responsibility for the child, if for any reason, the parent(s) cannot be reached immediately in an emergency;

(8) Any chronic conditions, allergies, or medications to be administered in the event of sudden illness or injury;

- (9) Written parental permission for first aid treatment;
- (10) Written parental permission for emergency medical transportation and treatment;
- (11) The name and telephone number of each child's physician or health care provider; and
- (12) Names, addresses, telephone numbers, and relationships of any person(s) other than parent(s) who are authorized to remove the child from the program.

(b) Programs shall be equipped with a telephone that is operable and accessible to all staff 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) for responding to natural, human-caused, or technological incidences, which shall contain procedures 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 children with disabilities; and
- (8) Accommodations of children with chronic medical conditions.

(d) In order to assure that all staff, volunteers, and children are familiar with all the EOP drills listed in (c) above, programs shall:

- (1) Practice evacuation and relocation once per year with all child care staff, including volunteers;
- (2) Practice at least 2 other components of their EOP with all child care staff, including volunteers, and children each calendar year; and
- (3) Review all EOP response actions with all staff and volunteers, at least twice each calendar year.

(e) Programs shall record and maintain on file for review, a log of the practice drills and verification of the requirements in (d) above, which includes:

- (1) The date and time of the drill;
- (2) The type of drill practiced or drill reviewed;
- (3) The method of review or practice, such as in-person or review of online training;
- (4) The name of all staff and volunteers that participated in the review or drill; and
- (5) The signature and date of the individual conducting the review or drill.

(f) Upon enrollment, programs shall provide families with information from the EOP that addresses communication and reunification procedures, as specified in (c)(5) above.

(g) Programs shall conduct at least one fire drill each month the program is in operation in accordance with the following:

- (1) All children and staff shall evacuate the building during each fire drill; and
- (2) Staff shall check daily attendance records to ensure that all children and staff are accounted for after the building is evacuated.

(h) Programs shall complete a written record of fire drills which shall:

- (1) Be maintained on file at the program for one year; and
- (2) Be available for review by the department.

(i) The written record of fire drills required under (h) above shall include at least the following:

- (1) The date and time the drill was conducted;
- (2) The exits used;
- (3) The number of children evacuated and total number of people in the building at the time of the drill;
- (4) The amount of time taken to evacuate the building; and
- (5) The name of the person conducting the drill.

(j) Programs shall conduct a fire drill in the presence of a representative of the department upon request.

(k) If a child goes missing while in the care of the program, staff shall call emergency police services, or 911, as soon as staff have determined that the child cannot be promptly located on the premises of the child care program.

(l) Programs shall report any occurrence of a missing child as described in (k) above to the department within 24 hours.

(m) If a child is seriously injured while in the care of the program, including fractures, dislocations, stitches, second or third degree burns, concussions, or loss of consciousness, or any other injury which results in calling 911, requires emergency medical treatment by a physician or other health care professional, or requires hospitalization, the program shall:

- (1) Notify the child's parent immediately;
- (2) Notify the department within 48 hours; and
- (3) Provide to the department a written report which details the nature and circumstances of the serious injury within one week of the incident.

(n) If a child dies while in child care the program shall:

- (1) Notify emergency personnel and the child's parent immediately;
- (2) Notify the department of the death within 24 hours of the incident; and
- (3) Provide to the department a written report which details the circumstances which led up to the death within 72 hours of the incident.

(o) In addition to the reporting requirements under (n) above, the program shall, upon request, provide the department with any available information regarding the death.

He-C 6916.08 Prevention of and Response to Emergencies Due to Food and Allergic Reactions.

(a) Programs shall obtain an allergy care plan, signed by the child's physician, from the parent(s) of each child with a food allergy or other allergy which results in a serious reaction that includes at a minimum:

- (1) Instructions regarding the foods or other allergens to which the child is allergic and steps to be

taken to avoid consuming or coming into contact with those allergens;

(2) A list of specific symptoms that would indicate the need to administer one or more of the medications referenced in (3) below; and

(3) Details describing the course of action to take in response to an allergic reaction, including the name, dose, and method of prompt administration of any required medication.

(b) With the permission of the parent, each child's allergy care plan shall be posted prominently wherever the child might come in contact with the allergen.

(c) Staff shall immediately notify the parent 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) Staff shall call 911 immediately after epinephrine has been administered.

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

He-C 6916.09 Administration of Medication.

(a) Staff shall administer any medication, treatment, or other remedy as required under the provisions of the Americans with Disabilities Act of 1990.

(b) Staff shall only administer medication with:

(1) A valid and current prescription or signed and dated written instructions for administering the medication from the child's physician; and

(2) Signed and dated written permission from the parent.

(c) Administration of non-prescription topical substances may be performed by any staff, with written permission from the child's parent.

(d) In the event of a medication error in the administration of medication, staff shall notify the child's parent immediately.

(e) For any chronic condition requiring medication that is to be administered for more than 12 months, the written parental authorization specified in (b)(2) above shall be updated annually.

(f) The written instructions for administering the medication from the child's physician specified in (b)(1) above shall be updated by the parent, and on file at the program, if there is any alteration of any kind to the administration of the medication.

(g) Staff shall maintain a written log for each dose of medication, excluding topical substances, administered to each child.

(h) In the event of an error documenting the administration of medication, staff shall notify the child's parent by the end of the day in which the error occurred.

(i) 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.

(j) Medications such as insulin, inhalers, and epinephrine shall be immediately accessible to staff caring for children requiring such medications to assure timely administration when needed, and in accordance with instructions in He-C 6916.08(a)(2).

(k) All prescription or non-prescription medication and topical substances shall be kept in the original container or pharmacy packaging and properly closed after each use.

He-C 6916.10 Prevention and Control of Infectious Diseases, Including Immunizations.

(a) Staff and children shall wash their hands with liquid soap and warm running water as needed and:

- (1) After each diaper change or toileting;
- (2) After handling any bodily fluid;
- (3) After cleaning up or handling garbage;
- (4) After playing outdoors;
- (5) Before and after eating;
- (6) Before and after administering medication; and
- (7) Before and during any food preparation or service as often as necessary to remove soil and contamination and prevent cross-contamination when changing tasks or from raw to ready-to-eat foods.

(b) Child care staff shall:

- (1) Teach children the importance of handwashing with liquid soap and warm running water; and
- (2) Instruct, encourage, remind, or assist children as needed throughout each day to wash their hands as necessary to comply with (a)(1) through (5) above.

(c) Staff shall observe each child for symptoms of illness or injury throughout the day and contact the parent 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. Earache;
 - d. Sore throat; or
 - e. Vomiting.

(d) Any time there is spill of bodily fluids, or any staff or child in the program have symptoms of, or are known to have, a communicable disease:

- (1) Any spills of bodily fluids shall be immediately cleaned and sanitized;

(2) Persons involved in cleaning surfaces contained with bodily fluids shall:

- a. Wear protective disposable gloves while cleaning, disinfecting, and sanitizing the contaminated surface; and
- b. Immediately wash their hands with liquid soap and warm running water after discarding the gloves;

(3) Any materials, including disposable gloves and diapers contaminated by bodily fluids, shall be disposed of in a plastic bag with a secure tie or in a covered, plastic bag-lined, hands- free receptacle; and

(4) The program shall contact the bureau of disease control and prevention at (800) 852-3345, ext. 4496 for instructions regarding whether the ill individual is required to be excluded from the program and to determine reporting requirements in accordance with RSA 141-C:7 and He-P 301.03(c), (d), and (h) and He-P 301.05(i)(3)b.

(e) All foods prepared and served to children shall be free from spoilage, filth, and other contamination.

(f) Programs shall clean and disinfect bathroom facilities whenever visibly soiled, but at a minimum of once per week.

(g) Programs with pets on the premises shall:

- (1) Ensure dogs and cats have a current vaccination for rabies;
- (2) Keep cages that house small animals, fish tanks, and litter boxes away from food preparation, food service areas, and any other area where children play; and
- (3) Ensure children do not have direct contact with animal feces or urine either indoors or outdoors.

(h) 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 on the first day the child is in attendance at the program.

(i) Exemptions from the immunizations required under (h) above shall be in accordance with RSA 141-C:20-c and pursuant to 45 CFR Part 98.41(a)(1)(i)(C) 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.

(j) Programs shall not be required to obtain immunization records for children whose parent objects, on the grounds that such immunization is contrary to their religious beliefs, or for children with medical conditions that contraindicate immunization.

(k) Documentation for the exemptions listed in (j) above shall be on file with the program, and shall be in accordance with RSA 141-C:20-c.

He-C 6916.11 First Aid and Pediatric Cardiopulmonary Resuscitation (CPR).

(a) Programs shall have on the premises a selection of 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, staff shall inform the child's parent of the injury on the date the child is injured.

(c) If CPR is performed on a child while in the care of the program, staff shall:

- (1) Notify the child's parent immediately;

(2) Notify the department within 48 hours; and

(3) Provide to the department a written report which details the nature and circumstances which led to CPR being performed within one week of the incident.

He- C 6916.12 Child Development.

(a) During the operating hours of the program, parents shall have the opportunity to communicate with the staff who care for their child.

(b) Staff shall supervise every child in care at all times.

(c) The only exceptions to (b) above shall be as follows:

(1) Staff may allow children ages 72 months and older to go inside to use the bathroom when no staff are inside provided that staff have a plan in place to keep track of children who have gone inside and to check on children who have not returned in a timely manner; and

(2) Staff may allow school-age children 72 months and older who are enrolled in a full day school program to leave the premises of the program, unsupervised by staff, to participate in a specific activity, provided that there is written authorization from each child's parent on file at the program.

(d) Programs shall provide privacy for each child toileting, while allowing for age-appropriate supervision of each child.

(e) Programs shall provide daily opportunity for outdoor physical activity in the absence of extreme weather.

(f) All media, including televisions, video, or electronic devices shall be age and developmentally appropriate, and programs shall comply with parental restrictions regarding the use of electronic media for their child.

(g) Staff shall nurture and encourage each child in care by providing each child with a variety of developmentally appropriate learning and social experiences and establishing and maintaining a learning environment that provides for the emotional well-being of each child.

(h) When a child is engaging in unacceptable behavior, staff shall:

(1) Establish developmentally appropriate rules or limits for acceptable behavior, which are equitable and consistently applied;

(2) Redirect a child's attention to a desirable activity by providing positive guidance, positively worded directions, and developmentally appropriate explanations for the limits and rules referenced in (1) above;

(3) Demonstrate desired behavior and problem-solving skills and then redirect children to acceptable behavior;

(4) Arrange equipment, materials, activities, and schedules in a way that promotes desirable behavior; and

(5) Implement safe, logical, and natural consequences related to the misbehavior and enforcing those consequences as soon as possible after the misbehavior has occurred.

(i) Separation, or time out, shall only be used as a method to enable a child to regain control of themselves, not as a punitive disciplinary technique.

(j) When a child is separated from the group, the child shall be able to see and hear the other children

except when staff remove a child from the classroom to a quieter area to provide one-on-one attention.

(k) Staff shall not:

- (1) Abuse or neglect children;
- (2) Use rough handling on children;
- (3) Use corporal punishment on children;
- (4) Require children to stand or sit facing walls or corners;
- (5) Shame, humiliate, threaten, or frighten children;
- (6) Withhold food from children, forcibly feed children, or discipline children for not eating;
- (7) Discipline children for toileting accidents, lapses in toileting habits, or prohibit children from using the toilet as a form of discipline;
- (8) Use isolation as a form of discipline;
- (9) Yell in anger or frustration at or with children; or
- (10) Direct profanity or obscene language at children or use profanity or obscene language in the presence of children.

(l) Programs shall develop and implement a written policy to address the limitations of expelling children from the child care program for challenging behaviors.

(m) The policy in (l) 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) Parental 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.

(n) The written policy in (l) above shall be provided to parents at enrollment.

(o) The expulsion policy in (l) above 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 6916.13 Prevention, Recognition, and Reporting of Child Abuse and Neglect.

(a) Staff shall allow a parent access to their child at all times while the child is in the program's care, unless allowing access is contrary to a court order or a court-ordered parenting plan, pursuant to He-C 6914.07(a).

(b) Staff shall take prompt action to protect children from abuse, neglect, corporal punishment, and any other mistreatment by any individual.

(c) Any staff or other person involved with a program who suspects that a 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 by calling 1-800-894-5533.

(d) When any child, while in care of a program, is the victim of corporal punishment or other harsh punishment or treatment and has been physically or mentally injured because the child 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, a staff person of the enrolled

facility-based program shall inform the child's parent of the details of the incident.

(e) The notification provided to the child's parent of the incident as described in (d) above shall include 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 of the child or children involved in writing by the close of the next business day.

He-C 6916.14 Appropriate Precautions in Transporting Children.

(a) Programs 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 and the estimated time that the parent can expect the child to return to the program.

(b) The following shall be accessible to staff on any field trip:

- (1) An attendance record which includes the name and age of each child;
- (2) Copies of the registration and emergency information form required in He-C 6916.07(a), for each child;
- (3) A first aid kit adequate to meet the needs of the children in attendance on the field trip;
- (4) All medications requiring administration during the hours of the field trip as required by He-C 6916.09; and
- (5) All emergency medications as required by He-C 6916.08 for the children in attendance on the field trip.

(c) Items referenced in (b) above for each child shall remain with an individual who is with the child, including during transport.

(d) During any field trip, at least one staff member shall have access to a working phone, in case of emergency, and that phone number shall be available to parents and to staff remaining at the facility.

(e) Children who are transported by the program or during any program-sponsored activity 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 18 years of age and hold a valid driver's license; and
- (3) Maintained in safe operating condition.

(f) Staff shall be prohibited from using mobile electronic devices while operating a vehicle to transport children, including hands-free operation.

(g) The number of persons who are transported by the program or in any vehicle during any program-sponsored activity shall be limited to the number of persons the vehicle is designed to carry.

(h) In all vehicles, 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 6916.15 Staff-to-Child Ratio and Group Size.

(a) The staff-to-child ratio for school-age programs shall be one staff for 15 children with a maximum group size of 60.

(b) In addition to the staffing requirements in (a) above, programs shall have a second staff person in the building when 13 or more children are present.

(c) Programs shall provide a minimum of 40 square feet of usable indoor space per child. Indoor active play space shall be available to children daily.

(d) In addition to (a) above, programs offering drop-in care shall monitor attendance records to ensure compliance with group size and ratios. If there is a pattern of exceeding ratio and group size then additional staff shall be added. Attendance records shall be kept on file for 6 months for review by the department.

(e) The only exception to (a) above shall be when children combine for time-limited activities, such as meals, snacks, daily meetings, short stories, special guest presentations, or other special events, provided that all children have sufficient space for the activity.

He-C 6916.16 Monitoring Visits, Monitoring Statements, Program Improvement Plans, and Enforcement.

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

(b) The department shall conduct an annual announced monitoring visit for all enrolled facility-based child care providers as a condition of maintaining enrollment.

(c) The department shall issue a monitoring statement to the program for each monitoring visit.

(d) At the close of any monitoring visit or when an investigation is concluded, or as soon as possible thereafter, the department shall review with the program a summary of any violations of He-C 6916 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 United States mail if an email address has not been provided.

(f) Programs shall:

(1) Display the monitoring statement and program improvement plan approved by the department for the most recent visit to the program in a prominent location which is accessible to all, and notify all of the location of the monitoring statement and program improvement plan;

(2) Make available upon request to all a copy of the monitoring statement and program improvement plan approved by the department for the most recent visit to the program; and

(3) Not alter the monitoring statement or program improvement plan issued by the department.

(g) Programs shall complete a program improvement plan for each violation included on the monitoring statement, which shall include the following:

(1) The action the program has taken or will take to correct each violation;

(2) The steps the program will take to ensure compliance with He-C 6916 and the applicable statutes in the future;

(3) The date by which each violation was corrected or will be corrected;

(4) The interim measures the program has implemented to protect the health and safety of children when the violation cannot be corrected immediately; and

(5) The dated signature of the enrolled child care provider or their authorized representative.

(h) Programs shall complete 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 21 calendar days of the date that 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 plan.

(i) When a submitted program improvement plan in accordance with (g) and (h) above is not acceptable to the department in correcting a violation, the department shall issue a directed program improvement plan to the program.

(j) Notwithstanding (g), (h), and (i) 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 program, without first offering the program an opportunity to complete a program improvement plan.

(k) When a program receives a directed program improvement plan issued by the department in accordance with (i) or (j) above, it shall:

(1) Add any additional details regarding the improvement plan the program feels are necessary; and

(2) Complete and return the program improvement plan in accordance with (g)(5) and (h) above.

(l) Notwithstanding (a) through (g) above, when a program has repeatedly violated standards set forth in He-C 6916 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 pursuant to He-C 6914.08 without first requesting that the program submit a program improvement plan.

(m) Programs shall comply with all approved program improvement plans.

(n) The department shall conduct follow-up announced monitoring visits as needed to monitor the implementation of the program improvement plan.

(o) The department shall post the monitoring statement and program improvement plan within 5 days of the date of issue on the department website.

(p) Programs shall maintain all records, whether in electronic or paper format, required by He-C 6916:

(1) On file on the premises of the program; and

(2) Accessible and available for review by the department, upon request, for one year, unless otherwise specified.

(q) Child care program staff 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 6912, He-C 6914, He-C 6916, and He- C 6920.

(r) 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 6916.17 Informal Dispute Resolution.

- (a) An opportunity for informal dispute resolution shall be available to any facility-based program who disagrees with a citation issued by the department, per RSA 170-E:10-a.
- (b) When requesting an informal dispute resolution, the facility-based program shall:
- (1) Submit a written notice to the department requesting an informal dispute resolution no later than 14 days from the date of issuance of the monitoring statement; and
 - (2) Include in the notice why the facility-based program believes that the citation was issued erroneously as noted in the monitoring statement.
- (c) In accordance with RSA 170-E:10-a, written notice of the department's decision shall be provided to the facility-based program within 30 days from receipt of the request and receipt of any and all information from the facility-based program.
- (d) An informal dispute resolution shall not be an option for any facility-based program against whom the department has initiated a fine, or action to suspend, revoke, deny, or refuse to renew enrollment as a child care provider.

He-C 6916.18 Waiver of Rules.

- (a) Programs that wish to request a waiver of a rule shall provide in writing or electronically the following information:
- (1) The program's name, address, phone number, and the bridges database resource identification number assigned by the department for electronic payments;
 - (2) The rule number 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 or their authorized representative;
 - (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 any 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 child care 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 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 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 program has been found in violation of one or more of these rules and has not corrected the violation;
- (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 program's ability to adequately care for children;
- (5) The departments finds that approval of the requested waiver will impair the operations of the program; or
- (6) The department determines that the program 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 6916.19 Complaints and Investigations.

(a) The department shall respond to any complaint that meets the following conditions:

- (1) The alleged violation occurred not more than 6 months prior to the date the department was made aware of the allegation;
- (2) The complaint is based upon the complainant's first-hand knowledge regarding the allegation or on information reported directly to the complainant by a child who has first-hand knowledge regarding the allegation;
- (3) There is sufficient specific information for the department to determine that the allegation, if proven to be true, would constitute a violation of any of the provisions of He-C 6916; 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 6916.

(c) When the complaint is determined to be founded, a monitoring statement shall be issued listing the violation found as a result of the investigation, and any other violation 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 program advising that the complaint was unfounded.

He-C 6916.20 Confidentiality.

(a) Except for law enforcement agencies or in an administrative proceeding against the applicant or enrolled programs, 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 that any child was the victim of corporal punishment, or other

harsh punishment or treatment, or has been physically or mentally injured because the child was not supervised, or any child's health, safety, or well-being was otherwise jeopardized due to a program's non-compliance with He-C 6916, the department shall contact the child's parent to ensure that staff have fully informed the parent 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 6916.13(f).

(c) Programs 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) Programs shall allow the department access to all records that programs are required by department rule or state statute to keep, and to such records as necessary for the department to determine staffing patterns and staff attendance; and

(2) Programs 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.

(d) In addition to (c) above, programs shall discuss or share information regarding the admission, progress, behavior, health, or discharge of a child with the child's parent in a manner that protects and maintains confidentiality for both the child and the child's parent.

Chapter He-C 6917 HEALTH AND SAFETY RULES FOR IN-HOME LICENSE-EXEMPT CHILD CARE PROVIDERS RECEIVING CHILD CARE SCHOLARSHIP

Statutory Authority: RSA 161:2, XII, RSA 161:4-a, III

He-C 6917.01 Purpose. The purpose of this part is to set forth the minimum standards for health and safety requirements for license-exempt child care providers who provide child day care services for children and families receiving child care scholarship, pursuant to RSA 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 providing child day care services to families receiving child care scholarship pursuant to He-C 6914, and is exempt from licensure pursuant to RSA 170-E:3, I(c) and (h).

He-C 6917.03 Definitions.

(a) “Caretaker relative” means a relative, who is not the biological or adoptive parent of a child, but is providing care and supervision of the child in the assistance group.

(b) “Child” means “child” as defined in RSA 170-E:2, II, namely “any person under 18 years of age.”

(c) “Child care” means the act of providing supervision, food, activity, and rest for a child for any portion of a 24-hour day apart from the child’s parent, caretaker relative, or legal guardian, in order to promote healthy child development and assist the child’s parent, caretaker relative, or legal guardian in preparing for, securing, or maintaining employment or employment-related education or training.

(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 intentional infliction of physical pain by any means for the purpose of punishment, correction, discipline, instruction, or any other reason.

(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.

(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 18 months old.

(k) “In-home provider” or “provider” means an individual who is:

- (1) Providing child care in a private home;
- (2) Exempt from licensure pursuant to RSA 170-E:3, II or RSA 170-E:3, I(h);
- (3) An enrolled child care provider pursuant to He-C 6914; and
- (4) Does not have any staff members or volunteers.

(l) “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 a child.

(m) “Monitoring statement” means a written report issued by the department detailing the results of a

monitoring visit conducted by the department.

(n) “Monitoring visit” means “monitoring visit” as defined in RSA 170-E:2, X, namely “a visit made to the child day care agency by department personnel for the purpose of assessing compliance with the standards set by rule adopted by the commissioner pursuant to RSA 541-A.”

(o) “NH Professional Registry” means New Hampshire’s password-protected electronic database designed to support and track professional development for the early childhood and school age child care workforce pursuant to He-C 6914.04(k).

(p) “Parent” means an individual who has a birth, adoptive, or stepparent relationship to the child, a foster parent as defined in (i) above, a legal guardian as defined in (l) above, or a caretaker relative as defined in (a) above.

(q) “Program improvement plan” means a written plan developed by a provider, and approved by the department, in response to a monitoring statement, stating how the provider will come into compliance with the rules.

(r) “Relative” means grandparents, great grandparents, siblings who live in a separate residence, or aunts and uncles, pursuant to 45 CFR 98.41(a)(1)(i)(B)(1).

(s) “Supervision” means being present with children in child care, knowing the identities of children in care, the number of children present, and their whereabouts, observing their activities, and being in close enough proximity to have all children within sight or hearing allowing intervention, if needed, to safeguard each child from accident or injury.

(t) “Toddler” means a child 19 months through the age of 35 months old.

He-C 6917.04 Pre-Service Trainings and Annual Professional Development.

(a) The provider shall complete pre-service trainings in accordance with He-C 6914.04.

(b) Annual professional development shall be in accordance with He-C 6914.04, in that the provider

(1) Complete 2 hours of professional development in any of the health and safety topics listed in He-C 6914.04(e) and He-C 6914.04(h);

(2) Complete 2 hours of professional development in any of the topics listed in He-C 6914.05(a)(3); and

(3) Upload documentation of completion of professional development in (b)(1) and (2) above to the NH professional registry.

(c) The provider’s annual period for professional development shall begin on the DHHS enrollment date.

He-C 6917.05 Building and Physical Premises Safety.

(a) Both indoor and outdoor premises shall be safe, clean, free of clutter, and in good repair.

(b) Providers shall maintain the child care environment and ensure the indoor space is:

(1) Free from electrical hazards, such as overloaded outlets or extension cords, frayed, cracked or crimped cords, or unprotected outlets;

(2) Free from fire hazards;

(3) Well-ventilated by means of unobstructed mechanical ventilation system or open screened

window;

(4) Free from 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;

(5) Free from guns, weapons, or live or spent ammunition which are not in locked storage;

(6) Free from accessible knives and sharp objects unless the object is being used under direct supervision of the provider;

(7) Free from heavy furnishings or other heavy items that could easily tip or fall on children and would be likely to cause injury;

(8) Free from accessible loose and flaking paint;

(9) Well-lit to allow for the supervision of children and for the provider and children to move about safely;

(10) Free from damp conditions which result in visible mold or mildew or a musty odor;

(11) Free from trampoline use during child care hours, with the exception of small indoor trampolines intended for individual use with direct provider supervision only;

(12) Free from empty plastic bags, or bags which pose a suffocation hazard, which are accessible to children under the age of 3 years; and

(13) Free from accessible items labeled "keep out of reach of children" unless the item is non-toxic and being used under the direct supervision of the provider.

(c) All windows used for ventilation shall include screens in good repair, to prevent insects from entering the building. Windows and glass doors shall be constructed, adapted, or adjusted via the use of window guards or other means to prevent injury to children.

(d) Stairways with more than 3 steps shall be equipped with handrails and all stairways which are accessible to children younger than 3 years of age shall be equipped with functional, properly latched safety gates.

(e) 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.

(f) Providers 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.

(g) 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.

(h) Outside areas which are accessible to children shall be free of hazards including, but not limited

to:

- (1) Unprotected pools, wells, or other bodies of water;
- (2) Lawn and farm machinery;
- (3) Trash, litter, or debris;
- (4) Animal feces; and
- (5) Any other dangerous items or substances.

(i) In outside areas used by children, stationary play equipment accessible to children shall not be over hard surfaces such as cement or asphalt.

(j) 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.

(k) All fencing shall be designed to restrain children who have not yet entered school from climbing out of, over, under or through the fence.

(l) All swimming pools and wading pools shall be inaccessible to children except during supervised activities.

(m) Wading pools shall:

- (1) Be emptied and cleaned after each use;
- (2) Be stored so that water does not collect in them; and
- (3) Not contain water that is more than 10 inches deep.

(n) Providers shall have a safe supply of water under pressure available for drinking and household use.

(o) Providers shall not use portable toilets, chemical toilets, or any other toilets which are not attached to a functional sewage disposal system, except for potty chairs designed for use by older infants and toddlers.

(p) During all hours of operation there shall be functional sewage disposal facilities.

(q) Providers and household members shall not smoke in the building during operating hours.

[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) Providers shall adhere to state and federal rules and regulations in regards to lead paint and asbestos removal.

(d) Providers serving diapered children and children who are not toilet trained shall have a designated diaper changing area, which shall:

- (1) Be located adjacent to or in close proximity to a designated handwashing sink to allow access for handwashing without having to open doors or gates or have physical contact with other

children;

(2) Have a non-porous washable surface, which shall be used exclusively for diaper changing and sanitized after each diaper change;

(3) Contain a covered, hands-free receptacle, lined with a plastic bag, and located within the reach of the diaper changing area for disposal of soiled disposable diapers and cleansing articles; and

(4) Not be located in kitchens or in food preparation or food service areas, or on surfaces where food is prepared or served.

He-C 6917.07 Emergency Preparedness and Response Planning.

(a) Providers shall ensure that for each child, upon the child's first day in attendance, there is a "Child Care Registration and Emergency Information for License Exempt Programs" (May 2023) form completed and signed by the parent, on file, which contains:

(1) Full legal name of the child;

(2) Child's date of birth;

(3) Date of enrollment at the provider;

(4) The name, physical address, and mailing address of the parent responsible for the child;

(5) Telephone numbers for the child's parent and instructions as to how the parent can be contacted during the hours that the child is at the program;

(6) Email addresses for the parent, if available;

(7) The name, address, telephone number, and relationship of at least one person who will assume responsibility for the child, if for any reason, the parent cannot be reached immediately in an emergency;

(8) Any chronic conditions, allergies, or medications to be administered in the event of sudden illness or injury;

(9) Written parental permission for first aid treatment;

(10) Written parental permission for emergency medical transportation and treatment;

(11) The name and telephone number of each child's physician or health care provider; and

(12) Names, addresses, telephone numbers, and relationships of any person other than parent who are authorized to remove the child from the provider.

(b) There shall be a telephone that is operable and accessible to the provider during all operating hours for incoming and outgoing calls.

(c) Pursuant to 45 CFR Part 98.41, providers shall develop an emergency operations plan (EOP) for responding to natural, human-caused, or technological incidences, which shall contain procedures 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 2 components of their EOP with children, 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 any other injury which results in calling 911, requires emergency medical treatment, or hospitalization, the provider shall:

- (1) Notify the child's parent immediately;
- (2) Notify the department within 48 hours; and
- (3) Provide to the department a written report which details the nature and circumstances of the serious injury within one week of the incident.

(f) If a child goes missing while in the care of the provider, the provider shall call emergency police services, or 911, as soon as the provider has determined that the child cannot be promptly located on the premises of the child care provider.

(g) Providers shall report any occurrence of a missing child as described in (f) above 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 immediately;
- (2) Notify the department of the death within 24 hours; and
- (3) Provide to the department a written report which details the circumstances which led up to the death within 72 hours of the incident.

(i) In addition to the reporting requirements under (h) 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) Providers shall obtain an allergy care plan, signed by the child's physician, from the parent of each child with a food allergy or other allergy, which results in a serious reaction, 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 consuming or coming into contact with those allergens;
- (2) A list of specific symptoms that would indicate the need to administer one or more of the medications referenced in (3) below; and
- (3) Details describing the course of action to take in response to an allergic reaction, including the name, dose, and method of prompt administration of any required medication.

(b) With permission of the parent, each child's allergy care plan shall be posted prominently wherever the child might come in contact with the allergen.

(c) Providers shall immediately notify the parent 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 call 911 immediately after epinephrine has been administered.

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

He-C 6917.09 Administration of Medication.

(a) Providers shall administer any medication, treatment, or other remedy as required under the provisions of the Americans with Disabilities Act of 1990.

(b) Providers shall only administer medication with:

(1) A valid and current prescription or signed and dated written instructions for administering the medication from the child's physician; and

(2) Signed and dated written permission from the parent.

(c) Administration of non-prescription topical substances may be performed by the provider, with written permission from the child's parent.

(d) In the event of a medication error in the administration of medication, the provider shall notify the child's parent immediately.

(e) For any chronic condition requiring medication that is to be administered for more than 12 months, the written parental authorization specified in (b)(2) above shall be updated annually.

(f) The written instructions for administering the medication from the child's physician specified in (b)(1) above shall be updated by the parent, and on file at the provider, if there is any alteration of any kind to the administration of the medication.

(g) Providers shall maintain a written log for each dose of medication, excluding topical substances, administered to each child.

(h) In the event of an error documenting the administration of medication, the provider shall notify the child's parent by the end of the day in which the error occurred.

(i) 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.

(j) Medications such as insulin, inhalers, and epinephrine shall be immediately accessible to providers caring for children requiring such medications to assure timely administration when needed, and in accordance with instructions in He-C 6917.08(a)(2).

(k) All prescription or non-prescription medication and topical substances shall be kept in the original container or pharmacy packaging.

He-C 6917.10 Prevention and Control of Infectious Diseases, Including Immunizations.

(a) Providers and children shall wash their hands with liquid soap and warm running water as needed and:

(1) After each diaper change or toileting;

- (2) After handling any bodily fluid;
- (3) After cleaning up or handling garbage;
- (4) After playing outdoors;
- (5) Before and after eating;
- (6) Before and after administering medication; and
- (7) Before and during any food preparation or service as often as necessary to remove soil and contamination and prevent cross-contamination when changing tasks or from raw to ready-to-eat foods.

(b) Providers shall:

- (1) Teach children the importance of handwashing with liquid soap and warm running water;
- (2) Instruct, encourage, remind, or assist children as needed throughout each day to wash their hands as necessary to comply with (a)(1) through (5) above; and
- (3) Wash the hands of infants as necessary to comply with (a)(4) and (a)(5) above.

(c) Providers shall observe each child for symptoms of illness or injury throughout the day and contact the parent 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. Earache;
 - d. Sore throat; or
 - e. Vomiting.

(d) Any time there is a spill of bodily fluids, or any provider or child has symptoms of, or are known to have, a communicable disease:

- (1) Any spills of bodily fluids shall be immediately cleaned and sanitized;
- (2) Persons involved in cleaning surfaces contained with bodily fluids shall:
 - f. Wear protective disposable gloves while cleaning, disinfecting, and sanitizing the contaminated surface; and

g. Immediately wash their hands with liquid soap and warm running water after discarding the gloves;

(2) Any materials, including disposable gloves and diapers contaminated by bodily fluids, shall be disposed of in a plastic bag with a secure tie or in a covered, plastic bag-lined, hands-free receptacle; and

(3) The provider shall contact the bureau of disease control and prevention at (800) 852-3345, ext. 4496 for instructions regarding whether the ill individual is required to be excluded from child care and to determine reporting requirements in accordance with RSA 141-C:7 and He-P 301.03(d) and (e), He-P 301.03(i), and He-P 301.05(i)(3)b.

(e) All foods prepared and served to children shall be free from spoilage, filth, and other contamination.

(f) Providers shall check children in diapers and change diapers and clothing if they are soiled or wet as needed, and at minimum once every 2 hours.

(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 once per week.

(i) All bedding used by children in care shall be cleaned at least once per week and more frequently if soiled.

(j) Providers shall ensure that the presence of pets 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 cages that house small animals, fish tanks, and litter boxes away from food preparation, or food service areas, as well as any other area where children play; and

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

(l) 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 on the first day the child is in attendance with the provider.

(m) Exemptions from the immunizations required under (l) above shall be in accordance with RSA 141-C:20-c and pursuant to 45 CFR Part 98.41(a)(1)(i)(C) 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.

(n) Providers shall not be required to obtain immunization records for children whose parent objects, on the grounds that such immunization is contrary to their religious beliefs, or for children with medical conditions that contraindicate immunization.

(o) Documentation for the exemptions listed in (n) above shall be on file with the provider, and shall be in accordance with RSA 141-C:20-c.

He-C 6917.11 First Aid and Pediatric Cardiopulmonary Resuscitation (CPR).

(a) Providers shall have on the premises a selection of 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, the provider shall inform the child's parent of the injury on the date the child is injured.

(c) If CPR is performed on a child while in care of the provider, the provider shall:

- (1) Notify the child's parent immediately;
- (2) Notify the department within 48 hours; and
- (3) Provide to the department a written report which details the nature and circumstances which led to CPR being performed within one week of the incident.

(d) Providers shall not serve foods which can cause a choking hazard to children younger than 3 years of age or to children who have been identified as having chewing and swallowing difficulties, including but not limited to:

- (1) Spoonfuls 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 child care, parents shall have the opportunity to communicate with the provider who cares for their child.

(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 to play outside when a provider is inside, or to leave the premises of the provider, unsupervised, to participate in a specific activity.

(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;
- (3) Cleaned on a regular basis; and
- (4) Developmentally appropriate.

(f) Infants shall not be placed in any equipment which requires them to support their heads on their own if they have not yet developed the ability to do so.

(g) Baby walkers with wheels shall be prohibited.

(h) Providers shall not allow children younger than 3 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) Providers shall provide daily opportunity for outdoor physical activity in the absence of extreme weather.

(j) All media, including television, video, or electronic devices shall be age and developmentally appropriate, and providers shall comply with parental restrictions regarding the use of electronic media for their child.

(k) Providers shall nurture and encourage each child in care by providing each child with a variety of developmentally appropriate learning and social experiences and establishing and maintaining a learning environment that provides for the emotional well-being of each child.

(l) When a child is engaging in unacceptable behavior, providers shall:

(1) Establish developmentally appropriate rules or limits for acceptable behavior, which are equitable and consistently applied;

(2) Redirect a child's attention to a desirable activity by providing positive guidance, positively worded directions, and developmentally appropriate explanations for the limits and rules referenced in (1) above;

(3) Demonstrate desired behavior and problem-solving skills and then redirect children to acceptable behavior;

(4) Arrange equipment, materials, activities, and schedules in a way that promotes desirable behavior; and

(5) Implement safe, logical, and natural consequences related to the misbehavior and enforcing those consequences as soon as possible after the misbehavior has occurred.

(m) Separation, or time out, shall only be used as a method to enable a child to regain control of themselves, not as punishment, and 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, the child shall be:

a. Able to see and hear the other children; and

b. Within hearing and sight of a provider.

(n) Providers and household members shall not:

(1) Abuse or neglect children;

(2) Use rough handling on children;

(3) Use corporal punishment on children;

(4) Require children to stand or sit facing walls or corners;

(5) Withhold food from children, forcibly feed children, or discipline children for not eating;

(6) Shame, humiliate, threaten, or frighten children;

(7) Discipline children for toileting accidents, lapses in toileting habits, or prohibit children from using the toilet as a form of punishment;

- (8) Use isolation as a form of discipline on children;
- (9) Yell in anger or frustration at or with children;
- (10) Discipline children for not sleeping at rest or nap time;
- (11) Direct profanity or obscene language at children or use profanity or obscene language in the presence of children;
- (12) Require children to sleep, rest, go to their cot, mat, bed, or playpen or other sleeping or rest facilities, as a form of discipline;
- (13) Confine infants or toddlers in highchairs or other seating devices or equipment, which restricts movement, as a form of discipline; or
- (14) Place or confine children in equipment that is not appropriate for their age, including but not limited to cribs, playpens, or highchairs;

(o) Providers shall develop and implement a written policy to address the limitations of expelling children from child care for challenging behaviors.

(p) The policy in (o) above shall address at a minimum:

- (1) The steps the provider will take to assist the child in maintaining enrollment prior to expelling the child for challenging behaviors;
- (2) Parental notification requirements regarding their child's challenging behavior; and
- (3) The responsibilities of the provider if the challenging behavior results in a serious safety risk to the child or others within child care.

(q) The written policy in (o) above shall be provided to parents at enrollment.

(r) The expulsion policy in (o) above 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 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 12 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) Infants up to 12 months of age shall not nap or sleep in a car safety seat, beanbag chair, bouncy seat, infant seat, swing, jumping chair, highchair, chair, futon, moses basket, or any other type of furniture or equipment that is not a playpen or crib that meets the requirements of (f) below.

(d) There shall be an individual crib or playpen for each child 12 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 child's parent 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 1220.

(f) All cribs and playpens required in (e) above shall:

- (1) Be free of cracked or peeling paint, splinters, and rough edges;

- (2) Have no more than $2\frac{3}{8}$ 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;
- (4) Not have corner posts which extend more than 1/16 of an inch above the end panels;
- (5) 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;
- (6) Have properly fitted sheets which do not have excess fabric or that compress the mattress; and
- (7) 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 2 adult fingers wide and does not create a suffocation hazard.

(g) Cribs or playpens used by infants up to 12 months of age shall not have bumper pads, blankets, flat sheets, pillows, quilts, comforters, sleep positioners, or any soft items or toys.

(h) When the provider places an infant in a crib or playpen for sleep, the provider shall:

- (1) Check to ensure that the temperature in the room is comfortable for a lightly clothed adult;
- (2) Check the infant to ensure that the infant is comfortably clothed and not overheated or sweaty; and
- (3) Check to ensure that bibs and garments with ties or hoods are removed from the infant.

(i) Children older than 3 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 on file at the provider.

(j) A provider may use electronic monitors to supervise sleeping children provided that:

- (1) The parent provides a signed and dated authorization stating that the parent is aware of and agreeable to the use of an electronic monitor as a means of supervising their child when their child is asleep;
- (2) Sounds from the monitor shall be easily heard by the provider;
- (3) Every 10 minutes the provider shall observe the sleeping children, in person, to ensure that the child is safe and comfortable; and
- (4) Video monitors shall not replace a physical check of the child by the provider.

He-C 6917.14 Prevention of Shaken Baby Syndrome and Abusive Head Trauma and Prevention, 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 their child at all times while the child is in the 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, and any other mistreatment by any individual.

(d) Any provider, or other person involved with a provider 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 by calling 1-800-894-5533.

(e) When any child, while in care of a provider, is the victim of corporal punishment or other harsh punishment or treatment and has been physically or mentally injured because the child was not adequately supervised, or when the health, safety, or well-being of any child has been otherwise seriously jeopardized due to a provider's non-compliance with any of the provisions of He-C 6917, the enrolled child care provider shall fully inform the child's parent 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 provider as a result of the incident.

(f) The details of the incident outlined in (e) above shall be provided to the parents of the child or children involved in writing by the close of the next business day.

He-C 6917.15 Appropriate Precautions in Transporting Children.

(a) Except for relative providers as defined in He-C 6917.03(r), 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 and the estimated time that the parent can expect the child to return to the home where care typically takes place.

(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 provider 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 18 years of age and hold a valid driver's license; and
- (3) Maintained in 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 provider shall be limited to the number of persons the vehicle is designed to carry.

(f) Children younger than 5 years of age who are transported by the provider or during any provider-sponsored activity shall not be transported in any vehicle exempted from seat belt requirements under RSA 265:107-a, II.

(g) Providers shall utilize individual, age-appropriate child restraints, or seat belts, which 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 monitoring visit for all enrolled in-home child care providers in order to maintain enrollment.

(c) The department shall issue a monitoring statement to the provider for each monitoring visit.

(d) At the close of any monitoring visit, when an investigation is concluded, or as soon as possible thereafter, the department shall review with the provider a summary of any violations 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 provider, or by United States 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 each violation;
- (2) The steps the provider will take to ensure compliance with He-C 6917 and the applicable statutes in the future;
- (3) The date by which each violation 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 21 calendar days 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 a submitted program improvement plan in accordance with (f) above is not acceptable to the department in correcting the violation, the department shall issue a directed program improvement plan to the provider.

(i) Notwithstanding (f), (g), and (h) 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 improvement plan the provider feels are necessary; and
- (2) Complete and return the program improvement plan in accordance with (f) above.

(k) Notwithstanding (a) through (g) above, when a provider has repeatedly violated standards set forth in He-C 6917 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 pursuant to He-C 6914.08 without first requesting that the provider submit a program improvement plan.

(l) The provider shall comply with all department-approved program improvement plans.

(m) The provider shall:

- (1) Maintain on file on the premises and make available to all 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 by a relative as defined in He-C 6917.03(r), the department shall post the monitoring statement and program improvement plan within 5 days of the date of issue on the department website.

(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 Informal Dispute Resolution.

(a) An opportunity for informal dispute resolution shall be available to any provider who disagrees with a citation issued by the department, per RSA 170-E:10-a.

(b) When requesting an informal dispute resolution, the provider shall:

(1) Submit a written notice to the department requesting an informal dispute resolution no later than 14 days from the date of issuance of the monitoring statement; and

(2) Include in the notice why the provider believes that the citation was issued erroneously as noted in the monitoring statement.

(c) In accordance with RSA 171-E:10-a, written notice of the department's decision shall be provided to the provider within 30 days from receipt of the request and receipt of any and all information from the provider.

(d) An informal dispute resolution shall not be an option for any provider against whom the department has initiated a fine, or action to suspend, revoke, deny, or refuse to renew enrollment as a child care provider.

He-C 6917.18 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's name, address, phone number, and the bridges database resource identification 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 child care;

(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 provider.

(c) When a waiver is approved, the provider'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 violation;

(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 provider; 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 6917.19 Complaints and Investigations.

(a) The department shall respond to any complaint that meets the following conditions:

(1) The alleged violation occurred not more than 6 months prior to the date the department was made aware of the allegation;

(2) The complaint is based upon the complainant's first-hand knowledge regarding the allegation or on information reported directly to the complainant by a child who has first-hand knowledge regarding the allegation;

(3) There is sufficient specific information for the department to determine that the allegation, 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 6917.20 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 the child 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 parent to ensure that the provider has fully informed the parent 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(f).

(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 6912, He-C 6914, He-C 6917, or He-C 6920.

(f) In addition to (d) above, a provider shall discuss or share information regarding the admission, progress, behavior, health, or discharge of a child with the child's parent in a manner that protects and maintains confidentiality for both the child and the child's parent.

Appendix.

Rule	Specific State or Federal Statutes or Regulations the Rule Implements
He-C 6916	RSA 161:2, XII; RSA 161:4-a, III; RSA 170-E:3, I(f) and (g); RSA 170-E:6-a; RSA 170-E:10-a; RSA 170-E:11; RSA 170-G:4, XVIII; RSA 170-G:5; 45 CFR 98.41; and 45 CFR 98.42
He-C 6917	RSA 161:2, XII; RSA 161:4-a, III; RSA 170-E:3, I(c) & (h); RSA 170-E:6-a; RSA 170-E:10-a; RSA 170-E:11; RSA 170-G:4, XVIII; RSA 170-G:5; 16 CFR 1219; 16 CFR 1220; 45 CFR 98.41; and 45 CFR 98.42