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Readopt with amendment He-C 4002, effective 4-22-22 (Document #13373), to read as follows:

PART He-C 4002 NH CHILD CARE PROGRAM LICENSING RULES

He-C 4002.01 Definitions.

(a) “Accredited college or university” means a college or university acknowledged as meeting acceptable levels of quality through accreditation by any of the accrediting organizations recognized by the US Department of Education or the Council for Higher Education Accreditation.

(b) “Agency administrator” means a person who meets the qualifications of a center director and is employed by the licensee to oversee multiple child care agencies by a single or the same applicant or licensee.

(c) “Applicant” means “applicant” as defined in RSA 170-E:2, I.

(d) “Assistant group leader” means a person who is employed in or is seeking employment in a New Hampshire licensed child care program, who meets the age, education, and experience requirements specified in He-C 4002.34.

(e) “Assistant teacher” means a person who is employed in or is seeking employment in a New Hampshire licensed child care program, who meets the age, education, and experience requirements specified in He-C 4002.34.

(f) “Associate teacher” means a person who is employed in or is seeking employment in a New Hampshire licensed child care program, who meets the age, education, and experience requirements specified in He-C 4002.34.

(g) “Authorized staff” means child care staff that have completed training in medication safety and administration who are responsible for administration of medications to children.

(h) “Center based program” means any program owned and operated by one applicant and is licensed to provide any of the following types of child care:

- (1) Group child care center;
- (2) Infant and toddler program;
- (3) Night care program;
- (4) Preschool program;
- (5) School-age program; or
- (6) Any combination thereof.

(i) “Child” means “child” as defined in RSA 170-E:2, II.

(j) “Child care assistant” means a person who is employed in or is seeking employment in a New Hampshire licensed family child care program or a small child care center, who meets the age, education, and experience requirements specified in He-C 4002.33(g).

(k) “Child care manager” means a person who is responsible for the daily operation of a small child care center, and who provides the child care for at least $\frac{2}{3}$ of the operating hours.

(l) “Child care staff” means:

- (1) All child care staff categories as specified in He-C 4002.33 and 4002.34; and
- (2) Agency administrator and site coordinator, as defined in He-C 4002.01(b) and 4002.01(bm), respectively.

(m) “Child care worker” means a person who is employed in or is seeking employment in a New Hampshire licensed family child care home, family group child care home, or small child care center, who meets the age, education, and experience requirements specified in He-C 4002.33(f).

(n) “Child day care” means “child day care” as defined in RSA 170-E:2, III. This term includes “child care”.

(o) “Child day care agency” means “child day care agency” as defined in RSA 170-E:2, IV. The term includes “agency” and “child care program”.

(p) “Citation” means non-compliance with a rule adopted in accordance with RSA 541-A.

(q) “Clean” means to remove dirt, debris, and bodily fluids by scrubbing and washing with a detergent solution and rinsing with water, or in accordance with the manufacturer’s instructions for cleaning.

(r) “Commissioner” means “commissioner” as defined in RSA 170-E:2, V.

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

(t) “Corrective action plan (CAP)” means “corrective action plan” as defined in RSA 170-E:2, VI.

(u) “Days” means calendar days unless otherwise specified herein.

(v) “Department” means “department” as defined in RSA 170-E:2, VII.

(w) “Developmentally appropriate” means actions, environment, equipment, supplies, communications, interactions, and activities that are based on the family culture, and the individual physical, emotional, social, and cognitive needs of each child in care.

(x) “Directed corrective action plan” means a corrective action plan that is developed and issued by the department.

(y) “Document” means any record, either in paper or electronic format, required in He-C 4002. This term includes “documentation”.

(z) “Family child care provider” means the individual in whose home family or family group child care services are provided, who is responsible for the operation of the program, and who provides the child care for at least $\frac{2}{3}$ of the operating hours.

(aa) “Family day care home” means “family day care home” as defined in RSA 170-E:2, IV(a). This term includes “family child care home”.

(ab) “Family group day care home” means “family group day care home” as defined in RSA 170-E:2, IV(b). This term includes “family group child care home”.

(ac) “Full day school program” means a program administered by a public or private school that is approved by the department of education.

(ad) “Group child care center” means “group child care center” as defined in RSA 170-E:2, IV(c).

(ae) “Group leader” means a person who is employed in or is seeking employment in a New Hampshire licensed child care program, who meets the age, education, and experience requirements specified in He-C 4002.34(q).

(af) “Guardian” means “guardian” as defined in RSA 170-E:2, VIII.

(ag) “Household member” means any person residing in the home of an applicant for licensure as a program, if the program will be located in that home.

(ah) “Infant” means a child from the time of birth up to 12 months old.

(ai) “Infant and toddler program” means “infant and toddler program” as defined in RSA 170-E:2, IV(d).

(aj) “In-service professional development” means professional development activities including training or education acquired after an individual meets the qualifications for their position and which is acceptable toward meeting the annual professional development requirements for child care staff, as specified in He-C 4002.32.

(ak) “Junior helper” means a person who is engaged in a New Hampshire licensed child care program, who meets the age, education, and experience requirements specified in He-C 4002.33(k) or He-C 4002.34(o).

(al) “Lead teacher” means a person who is employed in or is seeking employment in a New Hampshire licensed childcare program, who meets the age, education, and experience requirements specified in He-C 4002.34(k).

(am) “License” means “license” as defined in RSA 170-E:2, IX.

(an) “License capacity” means the number and ages of children specified on the license or permit allowed to be in care at any one time.

(ao) “Licensee” means the person or entity to whom the department has issued a permit in accordance with RSA 170-E:2, XI or license in accordance with RSA 170-E:2, IX.

(ap) “Licensed practitioner” means a physician, physician's assistant, advanced registered nurse practitioner, dentist, or other licensed professional with prescriptive authority.

(aq) “Licensing coordinator” means a person employed by the department who consults with and inspects programs for compliance with RSA 170-E and He-C 4002.

(ar) “Medication” means a drug prescribed for a child by a licensed practitioner.

(as) “Medication error” means any error in the administration of a prescribed or over-the-counter medication, or an error in the documented administration of any medication or over-the-counter medication.

(at) “Medication order” means a document, produced electronically or in writing, for an identified child by a licensed practitioner for medications, treatments, and referrals, and signed by the licensed practitioner using terms such as authorized by, authenticated by, approved by, reviewed by, or any other term that denoted approval by the licensed practitioner.

(au) “Monitoring visit” means “monitoring visit” as defined in RSA 170-E:2, X.

(av) “Night care agency” means “night care agency” as defined in RSA 170-E:2, IV(e). This term includes “night care program”.

(aw) “Over-the-counter medications” means non-prescription medications.

(ax) “Permit” means “permit” as defined in RSA 170-E:2, XI.

(ay) “Policy” means a formal written document outlining the procedures for implementation of requirements specified in this chapter.

(az) “Preschool program” means “preschool program” as defined in RSA 170-E:2, IV(f).

(ba) “Program” means any or all of the following types of child day care agencies providing care on or off the approved licensed premises:

- (1) Infant and toddler program;
- (2) Family child care program;
- (3) Family group child care program;
- (4) Group child care center;
- (5) Night care program;
- (6) Preschool program;
- (7) School age program; and
- (8) Small child care center.

(bb) “Program manager” means a family child care provider, child care manager, center director, agency administrator, site coordinator, or site director who has the authority to submit applications, waiver requests, corrective action plans, and any other executive actions required or identified in this chapter.

(bc) “Project leader” means a person who is engaged in a New Hampshire licensed child care program, who meets the age, education, and experience requirements specified in He-C 4002.34(s).

(bd) “Qualified substitute director” means a person who assumes the responsibilities of a center director or site director and who meets the age, education, and experience requirements of the position for which they are substituting in order to meet the requirements under He-C 4002.34(a) and (b).

(be) “Regularly” means “regularly” as defined in RSA 170-E:2, XII.

(bf) “Related coursework” unless otherwise specified, means courses completed at an accredited college or university in child growth and development, lifespan development, human growth and development, infant and toddler development, developmental psychology, family studies, early childhood, elementary, and special education, and any other coursework focused on children.

(bg) “Repeat citation” means a citation of a specific licensing rule or law for which the program has been previously cited during the past 3 years, and which has not been removed as a result of an informal dispute resolution or overturned as a result of an adjudicatory procedure. A repeat citation does not need to

include the same set of circumstances, or involve the same child care staff or the same child or children as in the original citation.

(bh) “Rough handling” means an aggressive physical act against a child, except when necessary to protect a child from harming themselves or others.

(bi) “Sanitize” means to clean to remove all organic material then wipe down or wash with a solution of chlorine bleach and room temperature or cool water which is mixed fresh daily per manufacturer’s directions for sanitation and left on the surface for 2 minutes or with an environmental protection agency (EPA) approved germicide designed to kill germs and which, when used in accordance with manufacturer’s directions, does not pose a health or safety risk to children.

(bj) “School-age program” means “school-age program” as defined in RSA 170-E:2, IV(g).

(bk) “Serious injury” means an injury to a child that requires medical treatment or hospitalization.

(bl) “Serious safety risk” means behavior of such intensity, frequency, or duration that the safety of the child or others is placed in jeopardy.

(bm) “Site coordinator” means a person who is qualified as a site director and is employed to oversee multiple school age program licenses by a single applicant or licensee.

(bn) “Site director” means a person who is employed in or is seeking employment in a New Hampshire licensed child care program, who meets the age, education, and experience requirements specified in He-C 4002.34(p).

(bo) “Small group child day care center” means “small group child day care center” as defined in RSA 170:E:2, IV(i). This term includes “small child care center”.

(bp) “Statement of findings” means a written report issued by the department which details the findings of a visit or an investigation conducted by the department.

(bq) “Substitute” means a person who assumes the responsibility of assistant teacher, associate teachers, lead teachers, or group leaders, on a temporary basis, who meets the age requirements of the position for which they are substituting.

(br) “Toddler” means a child over 12 months to 35 months old, except as referenced in He-C 4002.36.

(bs) “Topical substances” include, but are not limited to, non-prescription medications such as sunscreen, insect repellent, teething aids, and diaper ointments.

(bt) “Unit” means the child care licensing unit within the department.

(bu) “Water activity” means any activity during which children have access to or use of splashing pools, wading pools, and swimming pools with or without slides, and other similar bodies of water including ponds, rivers, lakes, and the ocean, and excluding water tables and sprinklers.

He-C 4002.02 Licensure and Approval: Initial Applications, License Renewal, and Revisions.

(a) Any person or entity who intends to operate a program shall create an account in “New Hampshire Connections Information System (NHCIS)” at <https://new-hampshire.my.site.com/nhccis/s/login/?ec=302&startURL=%2Fnhccis%2Fs%2F> or obtain an application packet from the unit.

(b) All new applicants for licensure shall complete and submit an application by either applying online via the portal described in (a) above or by submitting to the department:

(1) An “Application for Family Child Care Program” (August 2025) certifying that:

“I understand that the department may investigate any criminal conviction record, finding of child abuse or neglect, or investigation of or final determination regarding any juvenile delinquency and will make a determination regarding whether the individual is eligible to be in a child care program;

I understand that the department may delay its decision to approve or deny this application pending the outcome of any investigation, when the applicant, owner, or family child care provider, are named as the perpetrator in any current investigation of any crime, or in an allegation of abuse or neglect;

I understand that providing false information on this application or any of the attachments, or failing to disclose any information required on the application, or required to be submitted with this application, shall be considered grounds for license denial or revocation;

I have read the NH child care program licensing rules, and understand that failure to maintain my program in compliance with the rules, may jeopardize my license/permit and/or result in fines being assessed by the department;

I authorize any police department, court system or human service agency in this or any other state to release copies of any criminal records or child abuse or neglect records to the department; and

All information provided as part of this application and in the required attachments is true and complete to the best of my knowledge.”; or

(2) An "Application for Child Care Center" (August 2025) certifying that:

“I understand that the department may investigate any criminal conviction record, finding of child abuse or neglect, or investigation of or final determination regarding any juvenile delinquency and will make a determination regarding whether the individual is eligible to be in the child care program;

I understand that the department may delay its decision to approve or deny this application pending the outcome of any investigation, when the applicant, owner, center director, site coordinator, or site director, are named as the perpetrator in any current investigation of any crime, or in an allegation of abuse or neglect;

I understand that providing false information on this application or any of the attachments, or failing to disclose any information required on the application, or required to be submitted with this application, shall be considered grounds for license denial or revocation;

I have read the NH Child Care Program licensing rules, and understand that failure to maintain my program in compliance with the applicable rules, may jeopardize my license/permit and/or result in fines being assessed by the department;

I authorize any police department, court system or human service agency in this or any other state to release copies of any criminal records or child abuse or neglect records to the department; and

All information provided as part of this application and in the required attachments is true and complete to the best of my knowledge.”

(c) The applications in (b) above shall not be considered complete until the department receives all of the information as specified in (e) below.

(d) Center based programs with multiple buildings on the same or contiguous properties may apply for a single license via one application for those buildings provided that:

- (1) The buildings are on a single, site-specific address;
- (2) There is a system or procedure in place so staff in each building can quickly and easily communicate with staff in the other buildings, thereby allowing the multiple buildings to function efficiently as a single program;
- (3) Staffing requirements for center-based agencies with multiple buildings are met as specified in He-C 4002.34; and
- (4) In each building, there are adequate square footage and bathroom facilities for the number of children who will be cared for, in accordance with He-C 4002.21.

(e) Except as specified in (f) below, the applicant for a new license shall submit to the department the following with the application:

- (1) A “Child Care Personnel Health Form” (August 2025) or an equivalent record of a health screening for the program manager, completed by a licensed practitioner no more than one year prior to the date the department receives the application, certifying that the program manager has no apparent health problems that would prohibit their employment caring for children, and an authorization by the program manager for the licensed practitioner to release the medical information on the form to the child care program and the child care licensing unit;
- (2) Written approval from the local health officer documenting that, within the 12 months immediately preceding the date the department receives the application, the premises have been inspected and approved by a local health officer, for operation as a program;
- (3) Written approval from the local fire inspector that, within the 12 months preceding the date the application for licensure is received by the department, the premises have been inspected for compliance with Saf-FMO 300 and RSA 153:1 VI-a, by the local fire department or the state fire marshal’s office, and approved to operate as a program;

- (4) Documentation from the applicable town or city that the program has been granted zoning approval or that no zoning approval is required;
 - (5) Background check forms as specified in He-C 4002.40 for:
 - a. The owner or applicant;
 - b. All household members aged 12 years and older; and
 - c. The program manager;
 - (6) Verification from the New Hampshire secretary of state that the applicant is in good standing;
 - (7) A diagram of the indoor and outdoor space for each building, which includes:
 - a. For indoor space:
 - 1. Room dimensions;
 - 2. Location of exits;
 - 3. How each room will be used;
 - 4. The location of bathrooms and bathroom fixtures, such as toilets and sinks;
 - 5. The location of other handwashing sinks; and
 - b. For outdoor play space:
 - 1. The overall dimensions of outdoor play space;
 - 2. The location of exits, gates, and stationary play equipment;
 - 3. The location of the outdoor play space in relation to the indoor space; and
 - 4. The presence of and location of any pools, ponds, streams, rivers, streets, roads, or other hazards that are in close proximity; and
 - (8) In accordance with RSA 130-A:5-d, II, certification of lead safety for new applicants in buildings erected prior to January 1, 1978.
- (f) In accordance with RSA 170-E:6, school-age programs operating in buildings in which public or private schools are located shall not be required to submit the documentation required in (e)(2) through (4) or (8) above.
- (g) For all programs, the applicant shall submit documentation that the program manager meets the age, education, and experience requirements for the applicable program type(s) as specified in He-C 4002.33 and He-C 4002.34, such as copies of transcripts, certificates, diplomas, a non-expired NH child care credential, or degrees as applicable, and a résumé or verification of previous experience if such experience is required to meet the qualifications for the position.
- (h) No less than 3 months prior to the expiration date of the current license, applicants for license renewal shall submit to the department the following through the “NHCIS” portal at https://new-hampshire.my.site.com/nhccis/s/login/?ec=302&startURL=%2Fnhccis%2Fs%2F_or or by using the forms below:

- (1) A signed and completed application "Application for Family Child Care Program" (August 2025) or "Application for Child Care Center" (August 2025) for license renewal, in accordance with He-C 4002.02;
 - (2) Written approval from the local health officer documenting that, within the 12 months immediately preceding the date the department receives the application, the premises have been inspected and approved by a local health officer, for operation as a program;
 - (3) Written approval from the local fire inspector that, within the 12 months preceding the date the application for licensure is received by the department, the premises have been inspected for compliance with Saf-FMO 300 and RSA 153:1 VI-a, by the local fire department or the state fire marshal's office, and approved to operate as a program;
 - (4) Verification from the New Hampshire secretary of state that the applicant is in good standing;
 - (5) A completed "Staff and Household List" (August 2025) or updated staff roster in NHCIS; and
 - (6) A diagram of the indoor and outdoor space if changed since the previous application.
- (i) Upon receipt of a complete license application and inspection by department staff, the department shall:
- (1) Issue a 6-month permit to the applicant for a new applicant; or
 - (2) Issue a 3-year license to the applicant for a license renewal.
- (j) The license issued in accordance with (i) above shall reflect the maximum number of children approved by the local fire inspector, health officer, and zoning officials, and in accordance with the available floor space as measured by the department in accordance with He-C 4002.21(c) and (d) and the number of available toilets and sinks in accordance with He-C 4002.21(b).
- (k) In accordance with RSA 541-A:30, I, if a timely and sufficient application has been made in accordance with agency rules for renewal of a license for any activity of a continuing nature that does not automatically expire by law, the existing license shall not expire until the agency has taken final action upon the application for renewal.
- (l) The license or permit shall:
- (1) Not be transferable to a new owner or to a new location; and
 - (2) No longer be valid when:
 - a. The licensee has surrendered a license or permit;
 - b. The license has expired and a complete application form with attachments has not been received by the department; or
 - c. The license or permit has been revoked or suspended and:
 1. The licensee did not request an administrative hearing; or

2. The licensee requested an administrative hearing and, following that hearing, a decision was issued upholding the revocation or suspension.

(m) The licensee shall apply for revision of the license:

- (1) When they wish to add additional program types or change the type(s) of program for which they are licensed or permitted; or
- (2) Prior to moving to a new location.

(n) A licensee who wishes to increase their license capacity shall:

- (1) Submit a written request to the department;
- (2) Obtain approvals from the local fire inspector, health inspector, and zoning officials, when the increase exceeds the limits established in the current approvals;
- (3) Submit diagrams of indoor and outdoor space, in accordance with He-C 4002.02(d)(7), if there have been changes in the child care space; and
- (4) Not increase enrollment beyond the current license capacity until the department issues the program a revised license or permit or other written authorization by the department for the increased license capacity.

He-C 4002.03 Time Frames for Departmental Response to Applications.

(a) Pursuant to RSA 541-A:29, the department shall approve or deny an application, petition, or request within 60 days from receipt of the application, petition, or request and any additional information requested by the department.

(b) The 60 days for departmental response specified in (a) above shall begin on the date on which all requested information is received by the department.

(c) For license renewal applications, any outstanding corrective action plan for citations of rule or statute shall be considered additional information under (a) above.

He-C 4002.04 Waivers of Rules.

(a) Applicants or licensees who wish to request a waiver of rules shall contact the unit to initiate the waiver request process.

(b) Applicants or licensees with a “NHCIS” portal account shall request a waiver through their account or by providing a completed “Waiver Request Form” (August 2025).

(c) A waiver shall be granted to the applicant or licensee if the department determines that the alternative proposed by the applicant or licensee:

- (1) Meets the objective or intent of the rule; and

(2) Does not negatively impact the health, safety, or well-being of the children.

(d) When a waiver is approved, the applicant or licensee's subsequent compliance with the alternatives approved in the waiver shall be considered equivalent to complying with the rule from which waiver was sought.

(e) The department shall not approve any request for a waiver of any of the provisions of RSA 170-E or of any rules of other state agencies.

He-C 4002.05 Program Administration, Requirements for Reporting to the Unit, and License and Permit Requirements.

(a) The program shall:

(1) Abide by the provisions specified on the license or permit; and

(2) Not alter the license or permit issued by the department.

(b) As mandated reporters, the program manager or designee shall report to the division for children, youth, and families (DCYF) at 1-800-894-5533, if the licensee, child care staff, or other person involved with a program suspects that a child is being abused or neglected, in accordance with RSA 169-C:29.

(c) Program managers shall notify the unit using NHCIS or in writing regarding the following program changes:

(1) Prior to changing the name of the program or advertising under a new name, and provide documentation from the secretary of state, if applicable, and the date for which they want the new program name to be effective, so that the unit can issue a revised license which reflects the name change; and

(2) Within 5 business days when there is a change in mailing address, email address, or phone number.

(d) Program managers shall notify the unit in writing:

(1) Within 24 hours of any occurrence of a missing child or a child who was either inside or outside without staff supervision unless otherwise permitted in accordance with He-C 4002.19;

(2) Within 24 hours to initially report the death of a child, with a follow up report no later than 72 hours after the death, detailing the circumstances;

(3) Within 24 hours of a change of indoor or outdoor space if, due to an emergency, approved child care space cannot be used due to reasons including, but not limited to, damages which make an area unsafe for children;

(4) No later than the next business day:

a. When there is an allegation of abuse or neglect involving a child while in the care and custody of the licensee;

b. When a staff member of the program used corporal punishment on, or rough handling of, a child in care;

c. In addition to (d)(1) above, after calling law enforcement or emergency responders to the program for incidents or events involving enrolled children; and

d. When there is a motor vehicle accident involving program staff and children, or when children are involved in a motor vehicle accident during a program-sponsored trip involving a driver not employed by the licensee; and

(6) Within 30 business days if the applicant permanently discontinues using a space for child care if it affects the license capacity as reflected on the license, so that the unit can record the change in the file and revise the license accordingly if necessary.

(e) The department shall authorize a licensee to exceed its license capacity for up to a maximum of 20 workdays in a calendar year, if the department finds that the approval will not result in:

(1) More than 4 children younger than 3 years of age being cared for at the same time in a family or family group child care home or small child care center;

(2) More than 2 children younger than 24 months of age in a family child care home or small child care center, without an additional child care worker or child care assistant present and assisting in the care of the children;

(3) More than 2 children over license capacity in a family or family group child care home or small child care center;

(4) More than 4 children over license capacity in all other programs; or

(5) Health or safety risks to children.

(f) With the exception of a family child care provider, when the program manager on record with and approved by the department leaves the position, the licensee or their designee shall submit to the department:

(1) Written notice within 10 business days of the date of the vacancy; and

(2) The name and qualifications of the individual who will substitute in the role, together with documentation that the individual accepted the position.

(g) Any individual assuming the role of center director or site director on a temporary basis who is not qualified for the position in accordance with He-C 4002.34 shall serve in that role for not more than 120 consecutive days.

(h) Not more than 120 consecutive days after the date the qualified center director or site director previously on record with and approved by the department leaves the position, the program shall:

(1) Replace that individual with a fully qualified center director or site director; and

(2) Submit to the department information and documents for the new qualified center director or site director, including:

a. Name;

b. The effective hiring date;

c. Documentation of education and experience as specified in He-C 4002.34; and

d. A “Child Care Personnel Health Form” (August 2025) or an equivalent record of a health screening, as specified in He-C 4002.02(d).

(i) When an agency administrator or site coordinator leaves their position, the program shall:

(1) Replace them with a new agency administrator or site coordinator within 120 days and submit information as specified in (h)(2) above; or

(2) Submit information in (h)(2) above for each center director or site director at each location if the agency administrator or site coordinator position will not be filled.

(j) In accordance with RSA 170-E:6-b, each licensee shall either maintain liability insurance or provide disclosure to parents or guardians at enrollment of their child that the program is uninsured.

(k) All documentation required by the department, whether maintained by the program in electronic or paper format, shall be complete, legible, and available for review by the department upon request.

(l) The licensee shall maintain a child’s records on file at the program or keep them readily available for 2 years after the child’s last day of enrollment in the program.

(m) The licensee shall maintain the following documentation on file at the program or keep the documentation readily available for at least one year:

(1) Staff records;

(2) Staff and child attendance records;

(3) Field trip permission slips;

(4) Emergency operations plan (EOP) practice drills; and

(5) Monthly fire drills.

(n) The program manager or designee shall submit any reports or make available to the department any records or information required by the department for investigation, monitoring, or licensing purposes upon written request from the department.

(o) The applicant, licensee, or any child care staff shall not:

(1) Prevent, interfere with, or fail to cooperate with any inspection or investigation conducted by the department; or

(2) Falsify any documents, other written information, or reports issued by or required by the department under He-C 4002.

(p) Programs shall comply with all applicable local, state, and federal ordinances, rules, and laws.

(q) A licensee who has an unplanned temporary closure shall notify the department of such closure as soon as practicable.

He-C 4002.06 Statements of Finding and Corrective Action Plan.

(a) The department shall issue a statement of findings to the program for each licensing and monitoring visit, and each investigatory visit which results in one or more citations.

(b) The department shall not require a corrective action plan as specified in (f) below when:

(1) The department determines that all the following conditions are met:

- a. The citation is under He-C 4002.22, He-C 4002.23, or He-C 4002.24;
- b. The citation is not a repeat citation;
- c. The citation is corrected prior to or immediately during the visit;
- d. The citation is not a New Hampshire state fire code violation; and
- e. The citation does not immediately jeopardize the health, safety, or well-being of a child or children in care; or

(2) The program manager self-reports the non-compliance, which includes the corrective action already taken to correct the non-compliance, and the department determines that the corrective action taken is acceptable for correcting the non-compliance.

(c) At the close of any visit or when an investigation is concluded, or as soon as possible thereafter, the department shall review with the program manager or their designee, a summary of any citations of rules found during the visit.

(d) Within 21 calendar days of the visit review in (c) above, and in accordance with RSA 170-E: 10, III, the department shall provide the statement of findings via email, if a valid email address has been provided by the program, by uploading to the program's NHCIS portal, if applicable, or by U.S. mail if an email address has not been provided.

(e) The program shall not alter the statement of findings issued by the department.

(f) The program manager shall complete a corrective action plan for each citation included on the statement of findings, which shall include:

- (1) The action the program has taken or will take to correct the citation(s);
- (2) The steps the program will take to ensure compliance with these rules and the applicable statutes in the future;
- (3) The date by which each of the citations was corrected or will be corrected;
- (4) The interim measures the program has implemented to protect the health and safety of children, when the citation cannot be corrected immediately; and
- (5) The signature of the program manager if not submitted via NHCIS.

(g) The program manager shall complete and submit corrective action plans, excluding the names of individuals, within 21 days of the date of issuance.

(h) In addition to the corrective action plan, the program may submit a separate response to the department's findings. The response shall be posted with the corrective action plan on the website, in accordance with RSA 170-E:10, II and III.

(i) When the department determines that there is an imminent threat to the health, safety, or well-being of children, it shall issue a directed corrective action plan to the program, without first offering the program an opportunity to complete a corrective action plan.

(j) When the corrective action plan submitted to the department by the program is not acceptable for correcting the citation, the department shall:

(1) If submitted via NHCIS, respond with an explanation as to why the plan is not acceptable or incomplete, after which the program manager shall modify their corrective action plan accordingly and resubmit it to the department via NHCIS; or

(2) If submitted via email, respond via email with an explanation as to why the plan is not acceptable or incomplete, after which the program manager shall modify their corrective action plan accordingly and resubmit it to the department via email.

(k) Programs shall comply with approved corrective action plans and directed corrective action plans.

He-C 4002.07 Informal Dispute Resolution and Independent Informal Dispute Resolution.

(a) An informal dispute resolution (IDR) shall not be an option for any applicant or licensee against whom the department has initiated a fine, a conditional license, or action to suspend, revoke, deny, or refuse to issue or renew a license or permit.

(b) An opportunity for IDR shall be available to the licensee who disagrees with a citation issued by the department, per RSA 170-E:10-a.

(c) When requesting an IDR, the licensee shall:

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

(2) Include in the notice the reason why the licensee believes that the citation was issued erroneously as noted in the statement of findings.

(d) In accordance with RSA 170-E:10-a, written notice of the department's decision to uphold, remove, or revise the citation shall be provided to the licensee within 30 days from receipt of the request and receipt of all information from the applicant or licensee.

(e) Licensees may request an independent informal dispute resolution (IIDR) after requesting an IDR and the outcome does not result in removal or revision of the disputed citation.

(f) When requesting an IIDR, the licensee shall submit a written request to the department no later than 10 days of receipt of the outcome of the IDR.

(g) The IIDR panel members shall include at least one member of the Child Care Advisory Council and no less than 3 licensed child care providers.

(h) The IIDR panel shall communicate its recommendations in writing to the department within 5 days of the IIDR review, which shall include each citation disputed and a detailed explanation for each recommendation.

(i) The unit shall review the recommendations and remove the citations if the following conditions are met:

- (1) The evidence presented at the IIDR existed prior to the citation being issued;
- (2) There is a preponderance of evidence that the non-compliance cited did not occur; and
- (3) The evidence presented creates a change in material fact(s) that results in a rescission or revision of a citation.

He-C 4002.08 Staff and Child Attendance Records.

(a) The program shall have a record of each child's attendance in each room that:

- (1) Documents each child's daily arrival at and departure from the program, in real time; and
- (2) Is recorded all in one place, in a manner that reflects the number of children present in each room throughout the day.

(b) In addition to the requirements in (a) above, the program shall include or have the date of birth immediately available for each child listed on the child attendance record.

(c) The program shall have a record of daily staff attendance, including the staff's full name, scheduled work hours, their position as identified under He-C 4002.34, and their arrival and departure times at the program and in each room or group throughout the day, as applicable, recorded in real time by the staff.

(d) The staff attendance record shall be recorded all in one place, in a manner that reflects the staff present in each room throughout the day.

(e) The only exception to (c) above is staff shall not be required to sign in and out for breaks lasting fewer than 15 minutes when the staff remains in the building, or to conduct necessary tasks on the premises.

He-C 4002.09 Staff Record Requirements.

(a) The program shall maintain on file for each staff member, whether paper or electronic:

- (1) Documentation of the staff's qualifications, including required work experience and education, which demonstrates that they meet the qualifications for their position;
- (2) Documentation of a completed background check in accordance with He-C 4002.40;
- (3) A record of initial health screening upon hire, in accordance with (b) below;

- (4) Documentation of orientation, certifications, training, and professional development, as applicable; and
- (5) Documentation of supervision regarding disciplinary actions or investigations specific to the staff member.

(b) A written record of a health screening for all child care staff, household members, and other individuals who work with children in the classroom and who have 5 or more hours per week of contact with children shall:

- (1) Be on file at the program and available for review by the department within 60 days of the date of hire or the date the household member or individual begins working with children in the classroom for 5 or more hours per week; and
- (2) Include, at a minimum, the information on the “Child Care Personnel Health Form” (August 2025) provided by the department, or its equivalent.

(c) The only exception to (b) above shall be for child care staff working in school age programs who are currently employed in a public or private school.

(d) The initial record of the health screening for newly hired child care staff shall:

- (1) Have been completed not more than 12 months preceding the date of hire or the date the individual began working with children in the classroom for 5 or more hours per week; and
- (2) Include a statement by the health care provider that indicates the individual has no apparent health conditions that would prohibit or inhibit their ability to care for children.

He-C 4002.10 Child Record Requirements.

(a) Program managers shall ensure that for each child there is a “Child Care Registration and Emergency Information” (August 2025) form, completed by the parent or guardian, or an equivalent form on file on the child’s first day in attendance, in accordance with (b) below.

(b) The equivalent form allowed pursuant to (a) above shall include:

- (1) Full legal name of the child;
- (2) Child’s date of birth;
- (3) Child’s physical address and mailing address;
- (4) Child’s home telephone number;
- (5) Date of enrollment in the program;
- (6) The name, physical address, and mailing address of the parent(s) or guardians responsible for the child, if different from the child’s address;
- (7) Telephone numbers for the child’s parents or guardians and instructions as to how the parents or guardians can be contacted during the hours that the child is at the program;
- (8) Email addresses for the parents or guardians, if available;

- (9) Name and telephone number of at least one person who will assume responsibility for the child if, for any reason, the parents or guardians cannot be reached immediately in an emergency;
 - (10) Any chronic conditions, allergies, or medications in case of sudden illness or injury;
 - (11) Written parental or guardian permission for first aid treatment;
 - (12) Written parental or guardian permission for emergency medical transportation and treatment; and
 - (13) Names and telephone numbers of any person(s) other than parents or guardians who are authorized to remove the child from the program.
- (c) The program shall ensure each child's registration and emergency information form or an equivalent form contains the following statements:

(1) "The licensing authority for this program is the child care licensing unit (CCLU) within the bureau of licensing and certification in the department of health and human services. Child care programs are required to post a copy of the most recent statement of findings (SOF) and the corresponding corrective action plan (CAP) in a location which is accessible to parents, and programs must maintain copies of the most recent SOF with CAP and make them available for parents to review upon request. SOFs and CAPs are also available on-line at: https://new-hampshire.my.site.com/nhccis/NH_ChildCareSearch or by contacting the unit at cclunit@dhhs.nh.gov or 603-271-9025.

WHAT WE DO: The CCLU regulates and oversees child day care programs for compliance with licensing rules. A licensing coordinator conducts a yearly, unannounced monitoring visit at every program, as well as an unannounced visit prior to the expiration of a license every three years. CCLU also investigates allegations of non-compliance with licensing rules. Information about CCLU can be found on our website: <https://www.dhhs.nh.gov/programs-services/childcare-parenting-childbirth/child-care-licensing>.

CONVERSATIONS WITH CHILDREN – MONITORING VISITS: During routine monitoring visits, the Licensing Coordinator (LC) informally speaks with children to ask general questions about their day-to-day experiences in the child care program, using developmentally appropriate speech and language. The conversations and interactions take place while children are engaged in their daily routine with their class or group. At no time will a child be forced to speak with a LC.

CONVERSATIONS WITH CHILDREN – COMPLAINT INVESTIGATIONS: During visits to investigate a complaint, if the LC believes your child may have relevant information, and that it would be best to interview your child separately, away from their class or group, the LC will ask the classroom staff which children they may interview, based upon your choice below. If you wish to be notified prior to an LC speaking with your child, the LC will contact you for permission to speak with your child either at the program but away from the group, or arrange a date, time, and location with you to speak with the child. If you approve the on-site conversation with your child, the LC will ask staff to recommend a place in the program. The LC will introduce themselves, ask your child their name, and explain that their job is to make sure child care programs are safe. The LC will ask your child if they want to talk to the LC

about their child care. The LC will ask open-ended, non-leading questions, and at no time will your child be forced to speak with the LC.

The LC will ask children questions such as: routines for snacks/lunch, handwashing, outdoor play, the rules, what happens when a child breaks a rule, rest/nap, fire drills, and what they like/dislike about child care.

Based upon the information above, please indicate your preference:

- a. I give permission for child care licensing staff to speak with my child while with their class or group;
- b. I give permission for child care licensing staff to interview my child at the child care program separate from their class or group;
- c. I wish to be notified prior to child care licensing staff speaking with my child at the child care program separate from their class or group; and
- d. I do not give my permission for child care licensing staff to speak with my child while with their class or group.”; and

(2) “I hereby give permission for the staff of _____ to provide simple first aid treatment to my child, _____ when necessary. In the event of a more serious illness or injury, I give permission for my child to be transported to a hospital or other emergency medical facility to receive emergency medical treatment. I also authorize ambulance/rescue squad attendants to administer such treatment as is medically necessary, and I authorize licensed health care practitioners working in the hospital or emergency medical facility to examine and provide emergency medical treatment to my child if warranted. I understand that I will be contacted by child care program personnel as soon as possible regarding any emergency involving my child.”

(d) The program shall request and maintain on file for each child documentation of immunizations in accordance with RSA 141-C:20-a, RSA 141-C:20-b, and He-P 301.14.

(e) The documentation described in (d) above shall be on file on the first day the child is in attendance at the program or, pursuant to 45 CFR § 98, 41(a)(1)(i)(C), for children experiencing homelessness or for children in foster care within 60 days of the first date of attendance, to allow families or persons responsible for their care to obtain and provide documentation of immunizations.

(f) Exemptions from the immunizations required under (d) above shall be in accordance with RSA 141-C:20-c.

(g) The program shall obtain and maintain on file a child health screening form “New Hampshire Early Childhood Health Assessment Record” (August 2025), the first part completed and signed by the child’s parent or guardian, and the second part completed and signed by the child’s licensed practitioner,, or an equivalent record of physical examination, providing the following permission to exchange information:

“I _____, authorize and request my child’s primary car provider to exchange information about my child’s health and development as pertains to this form with the program/school listed below. The information may be provided by phone, fax, mail, or in person. I understand that the disclosed information will be considered confidential and will be used only for the health and educational benefit of my child and family. Except as needed to comply with

federal and state regulations, it will not be re-disclosed to any other person, school, or agency without my consent. I understand that this form will expire in one year unless I choose to cancel my permission in writing before that time.”

(h) The child health screening form shall be available for review by the department for each child no more than 60 calendar days after the date of admission.

(i) Programs shall not be required to obtain physical examination records for children whose parents or guardians object in writing, on the grounds that such physical examination is contrary to their religious beliefs.

He-C 4002.11 Children Who Are Ill.

(a) Child care staff shall observe each child, each day upon arrival and throughout the day for injuries and symptoms of illness which:

- (1) Impair or prohibit the child’s participation in the regular child care activities; or
- (2) Require more care than child care staff are able to provide without compromising the health and safety of the ill or injured child, or the other children in their care.

(b) Child care staff shall provide any child who is ill an opportunity to rest or an opportunity to do a quiet activity in a comfortable, supervised area, including areas not regularly considered child care space, such as offices, provided the space is safe for children to occupy, until parents or guardians arrive to remove the child from the program.

(c) The program manager or designee shall notify a child’s parent or guardian immediately upon determining the need to remove their child from the program due to illness.

(d) The program manager or designee shall contact the bureau of disease control and prevention for instructions in accordance with the following:

- (1) When child care staff or children in the program have symptoms of or are known to have a communicable disease to determine whether the ill individual is required to be excluded from the program; and
- (2) To determine reporting requirements in accordance with RSA 141-C:7, He-P 301.03(c) and (d), and He-P 301.03(h).

(e) When any child care staff or children in the program have symptoms of or are known to have a communicable disease any spills of bodily fluids shall be immediately cleaned and sanitized as specified in He-C 4002.22(ag) and (ah).

He-C 4002.12 Serious Injuries, Medical Emergencies, and Reporting Requirements.

(a) If any child while in the care of the program sustains a serious injury, as defined in He-C 4002.01(bk), or otherwise requires emergency services as prescribed in first aid and CPR training, the program manager or designee shall:

- (1) Immediately notify emergency personnel and the child's parents or guardians; and
- (2) Notify the department within 48 hours via NHCIS.

(b) The program manager or designee shall provide a written report by the next business day to the parents or guardians of the child or children that sustained a serious injury to fully inform them of the details of the incident reported in (a) above, including, if known:

- (1) The name of individuals 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 taken, or that will be taken by the program in response to the incident.

(c) The program manager or designee shall immediately notify a child's parent or guardian if their child sustains a bump or injury to their head or face that is more than a minor injury such as a scrape or scratch, resulting in any one of the following:

- (1) Excessive bruising or swelling;
- (2) An increase in fussiness or sleepiness;
- (3) Dizziness, clumsiness, or trouble with coordination;
- (4) Nausea or vomiting;
- (5) Loss of consciousness;
- (6) Headache;
- (7) Speech, vision, or hearing impairment; or
- (8) Discharge or blood from the bump.

(d) Except as required in (b) above, when a child sustains an injury pursuant to (c) above, the program manager or designee shall provide written notification to the child's parent or guardian as soon as possible on the date of the injury, detailing how the injury occurred, the date, time, and location of the injury, a description of the first aid treatment given to the child, and the name of the staff who administered first aid.

(e) First aid beyond cleaning a minor scrape or applying a cold cloth or an adhesive bandage, shall only be administered by staff currently certified in first aid.

He-C 4002.13 Children With Disabilities.

(a) The licensee shall accept and make reasonable accommodations to welcome and serve, or continue to serve, any child with a disability.

(b) In determining whether accommodations are reasonable and necessary, the program shall:

- (1) Refer to the Americans with Disabilities Act; and

- (2) If applicable, request parental or guardian release of information from professionals providing services to the child specific to the disability.

He-C 4002.14 Required Postings.

- (a) The program shall post in a prominent location:
 - (1) The current license or permit, visible to parents or guardians, staff, and visitors;
 - (2) The most recent statement of findings and corrective action plan approved by the department, where it is visible to parents or guardians, staff, and visitors; and
 - (3) A written procedure for emergencies and managing injuries, which shall include:
 - a. The location of first aid supplies;
 - b. The location of child care registration and emergency information forms;
 - c. The name, address, and telephone number of the hospital to which children will be taken in case of acute emergency when parents or guardians cannot be contacted, or delay of treatment appears dangerous;
 - d. Instructions to dial 911 to access emergency responders;
 - e. The Northern New England Poison Center at 1-800-222-1222; and
 - f. The names and telephone numbers of emergency substitute staff; and
 - (4) Emergency and evacuation procedures, posted next to each exit.

He-C 4002.15 Requirements for Written Policies and Procedures.

- (a) Licensees shall have and implement written policies regarding:
 - (1) A retention policy to prevent the suspension and expulsion of children, which includes:
 - a. The steps the program will take to assist the child in maintaining enrollment;
 - b. Ongoing communication with the parent or guardian and parent or guardian notification when the child's enrollment cannot be maintained;
 - c. The responsibilities of the program in response to the child's behaviors; and
 - d. Clear conditions, expectations, or steps under which the program will no longer maintain a child's enrollment due to the child's behaviors that pose a serious safety risk;
 - (2) Children's access to and use of television, video, and electronic devices;
 - (3) The administration of medication to children;
 - (4) Excluding children when they are ill, including symptoms, and when they might return;

- (5) The provision of meals and snacks, including when parents or guardians fail to send meals or snacks from home if the program does not provide meals or snacks; and
 - (6) The responsibility of staff and volunteers for supervision of children during field trips and water activities, which includes knowing who is in charge, the identity and number of the children they are responsible for, and the frequency of conducting and documenting head counts of children.
- (b) The policy regarding a retention plan required in (a)(1) above shall only apply when addressing a child's behavior and not a parent's or guardian's misconduct or the parent's or guardian's failure to comply with other child care rules or laws.
- (c) Programs operating exclusively outdoors shall have written policies to include:
- (1) The conditions when the program will not operate due to inclement weather, including excessive heat, extreme cold, or when there is a severe weather alert;
 - (2) The expectation of parents or guardians to provide appropriate clothing according to the season and current weather conditions; and
 - (3) How child care staff will monitor children regarding their comfort including their warmth or signs of overheating and the action child care staff will take in response to children's comfort related to the weather conditions.
- (d) The program shall provide all written policies to parents or guardians at enrollment.
- (e) In addition to the requirements for policies and procedures above, the program manager shall provide all child care staff with all policies and procedures upon hire, and ensure that they are familiar with them and comply with them, as applicable.

He-C 4002.16 Emergency Preparedness, Practice Drills, and Fire Drills.

- (a) Except for nature-based programs that operate solely outside, programs shall conduct fire drills in accordance with the following:
- (1) Programs that operate continuously throughout the year shall conduct at least one drill each month of operation;
 - (2) Programs that operate only during the school year shall conduct a drill within 14 days of opening each year and monthly thereafter;
 - (3) Programs that operate only during the summer months shall conduct one fire drill in each month of operation;
 - (4) Child care staff shall conduct fire drills at varying times during operating hours, including night time hours, if applicable, to ensure that each child attending the program experiences fire drills;
 - (5) Child care staff shall activate the actual fire alarm system for the building for at least 2 of the required monthly fire drills required each year and use a fire alarm or smoke detector to signal all other fire drills;

(6) All children and child care staff shall evacuate the building during each fire drill; and

(7) Child care staff shall check daily attendance records to ensure that all children and staff are accounted for, after the building is evacuated.

(b) The only exception to (a)(5) above shall be for school age programs operating in a public or private school, use of the actual fire alarm system for the building shall not be required for the monthly fire drills.

(c) Programs shall complete a written record of fire drills, which shall be available for review during visits by the fire inspector and the department.

(d) The written record of fire drills required under (c) above shall include:

(1) The date and time the drill was conducted and if the actual fire alarm system was used;

(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.

(e) The program manager or designee shall conduct a fire drill in the presence of a representative of the department or the local fire department upon request by either of those entities.

(f) Programs shall have an emergency operations plan (EOP) prior to issuance of a permit or renewal of a license.

(g) All EOPs shall include accommodations for infants and toddlers, children with chronic medical conditions, and children with disabilities or with access and functional needs and:

(1) Be created in coordination with local emergency response agencies in the community in which the program is located;

(2) Contain procedures for communication and reunification with families; and

(3) Include response actions for natural, human-caused, or technological incidences including, but not limited to:

a. Evacuation, both within the building and off-site;

b. Secure campus;

c. Drop, cover, and hold;

d. Lockdown;

e. Reverse evacuation;

f. Shelter-in-place; and

g. Bomb threat or scan.

(h) Programs that plan to resume operations after an emergency shall have a continuity of operations plan (COOP) to ensure that essential functions continue during, or resume rapidly after, a disruption of normal activities.

(i) Programs shall ensure that all staff and volunteers are trained on the EOP and response actions and are aware of the location of the plan.

(j) Upon enrollment, programs shall provide families with information from the EOP that addresses communication and reunification procedures.

(k) Programs shall conduct evacuation drills at least twice a year and dates shall be recorded and available for review pursuant to (m) below. A simulated drill is acceptable.

(l) The program manager or their designee shall practice at least 2 different components of their EOP drills, other than evacuation drills, with all staff and children each calendar year.

(m) The program manager or their designee shall record and maintain on file for review, a log of the practice drills and staff reviews required in (k) and (l) above, that include:

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

He-C 4002.17 Interactions Between and Among Adults and Children.

(a) Child care staff shall regularly interact with children at their level, maintain eye contact, and, whenever appropriate, sit on the floor with them.

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

- (1) Redirect a child's attention to a desirable activity by providing positive guidance, positively worded directions, and developmentally appropriate explanations for limits and rules;
- (2) Establish developmentally appropriate rules or limits for acceptable behavior, which are equitable, consistently applied, and developmentally appropriate;
- (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 enforce those consequences as soon as possible after the misbehavior has occurred.

(c) Child care staff shall use separation from the group only as a method to enable a child to regain control of themselves, and not as a punitive disciplinary technique. Child care staff shall check in with children to determine when they are ready to rejoin the group.

(d) When a child is separated from the group, they shall be able to see and hear the other children and be within hearing and vision of child care staff, except when child care staff remove a child from the classroom to a quieter area which is visible by other child care staff, to provide one-on-one attention.

(e) Child care staff and household members shall not:

- (1) Abuse or neglect children;
- (2) Use rough handling on children;
- (3) Shake children;
- (4) Use corporal punishment on children;
- (5) Require children to stand or sit facing walls or corners;
- (6) Shame, humiliate, threaten, or frighten children;
- (7) Confine infants or toddlers in highchairs or other seating devices or equipment, which restricts their movement, as a disciplinary technique;
- (8) Place or confine children in equipment that is not appropriate for their age, including but not limited to cribs, playpens, or highchairs;
- (9) Withhold food from children, forcibly feed children, or discipline children for not eating;
- (10) Discipline any child for toileting accidents, lapses in toileting habits, or prohibiting children from using the toilet as a form of discipline;
- (11) Isolate a child as a form of discipline;
- (12) Require children to rest, sleep, or go to their mat, crib, or rest area as a means of discipline, or discipline children for not sleeping or resting during naptime;
- (13) Yell in anger or frustration at or in the presence of children;
- (14) Use profanity or obscene language with children or among themselves where children can hear them; or
- (15) Endanger a child as per RSA 170-E:4, II.

(f) The applicant, licensee, and all child care staff shall take prompt action to protect children from abuse, neglect, rough handling, and corporal punishment, including but not limited to actions in (e) above.

(g) The program manager or their designee shall immediately notify the child's parent or guardian:

- (1) After calling emergency services to report that their child died while under the care of the program;
- (2) After calling the police when the program determines that their child is missing;

(3) To report any allegation of abuse or neglect involving their child while in the care and custody of the licensee;

(4) To report that their child was the victim of corporal punishment, rough handling, or other harsh treatment by child care staff;

(5) To report that their child was physically injured because they were not supervised; or

(6) To report that their child's health, safety, or well-being was otherwise jeopardized due to a program's non-compliance with licensing rules.

(h) The department shall notify the child's parent or guardian if it determines that the program manager or their designee did not notify a child's parent or guardian in accordance with the requirements in (g) above.

(i) If a child's actions pose an imminent serious safety risk to the child or others that could result in serious bodily harm, child care staff may move the child to another area, holding the child as gently as possible and as briefly as necessary to protect the child and others.

(j) If a child has multiple incidents as described in (i) above and does not respond to techniques described in (b) above, the program manager shall, in consultation with parents or guardians, create and implement a behavior management plan which supports the retention policy pursuant to He-C 4002.15(a)(1).

(k) The program shall ensure that parents or guardians have access to the program and to their children, at any time children are in attendance and without prior notification. This requirement shall not prohibit the program from locking the doors for security purposes or checking parent's or guardian's identification.

(l) The only exceptions to (k) above shall be if there is a court order or other legal documentation limiting parental or guardian access.

(m) Child care staff shall not:

(1) Be impaired while on the job by any substances including, but not limited to, legally prescribed medication, alcohol, or illegal substances; and

(2) Use alcohol or illegal substances while caring for children.

He-C 4002.18 Programming.

(a) Programs shall provide and implement a written schedule of typical daily activities offered to the children, which shall include opportunities for individual and group activities for each child, time for meals, snacks, sleep, or rest, and indoor and outdoor activities, and which shall be available for review by the department and parents or guardians.

(b) Program staff shall:

(1) Provide prompt attention to the individual physical needs of each child, such as diapering, toileting, feeding, sleeping, washing, and first aid; and

(2) Provide a variety of hands-on, developmentally appropriate activities, opportunities, and experiences for each child that foster and support cognitive, physical, social, and emotional development, and approaches to learning.

(c) Child care staff shall not allow children to provide care to other children, such as feeding infants, picking up infants or toddlers, changing diapers, assisting with toileting, or supervising children.

(d) Programs shall provide opportunity for at least 60 minutes daily of gross motor activity, whether inside or outside, for children, except preschools operating 5 or fewer hours per day shall provide at least 20 minutes of inside or outside gross motor activity daily.

(e) When taking children outside, staff shall assure that children are appropriately dressed for the weather conditions and shall monitor the children regularly for comfort in both hot and cold weather.

(f) Child care staff shall not allow a child to go outside when the child has a health concern as documented on their allergy care plan or as documented by the child's licensed practitioner limiting time outdoors.

(g) Child care staff shall adhere to instructions from the child's parent or guardian related to protection from sun exposure and apply sunscreen per manufacturer's instructions.

(h) Center-based programs shall not combine children younger than 24 months in a mixed age group which includes children older than 47 months, except:

(1) For time limited, specific activities, including but not limited to meals, snacks, naps, or rest time, and special occasions such as birthday or holiday celebrations or visitor presentations;

(2) When there are 17 or fewer children present in the program, including 5 children enrolled in a full day school program, and a maximum of 12 preschool children, of which no more than 4 children shall be younger than 36 months of age; or

(3) With a department approved plan for multi-age classrooms.

(i) Child care staff shall:

(1) Not confine awake infants and toddlers in restrictive equipment such as infant seats, seated infant carriers, car seats, swings, highchairs, stationary activity centers, strollers, cribs, or playpens for more than 15 minutes in any 2-hour period, unless necessary to provide for the physical safety of the infant or toddler when staff are otherwise engaged in the care of another child, such as changing a diaper or providing first aid;

(2) Allow infants and toddlers to remain in a highchair for more than 15 minutes when they are actively engaged in eating during snack or meals, in strollers for walks, or for non-ambulatory infants only, in cribs or playpens when outside;

(3) Provide stimulating activities such as age-appropriate toys or books to infants or toddlers while they are in equipment specified in (1) above; and

(4) Not leave infants or toddlers unattended in seating, carrying, or other devices placed on countertops, tables, or other elevated surfaces.

(j) Programs that are authorized by license or permit to care for children as young as 6 weeks of age may care for a child younger than 6 weeks of age for a maximum of 12 hours per week per child with prior approval from their local fire officer and notification to the department.

(k) In a family or family group child care home licensed to care for children 6 weeks of age, the restriction specified in (j) above shall not apply to the family child care provider's own biological, adopted, or foster care infant younger than 6 weeks of age or an infant younger than 6 weeks of age who resides in the provider's home, provided that, in doing so, it will not result in exceeding the limits specified in He-C 4002.33(m) through (o).

He-C 4002.19 Prevention and Management of Injuries.

(a) Child care staff shall supervise every child in care at all times.

(b) In center-based programs, staff shall:

(1) Know the number and identity of children in their care; and

(2) Position themselves to:

a. Be able to hear all children younger than school age at all times, continuously scan the entire environment to know where children are and what they are doing, and be able to physically respond immediately;

b. Always know the whereabouts and activities of all school age children in their care when children are briefly out of sight, such as when transitioning from one area to another or using the bathroom, and shall be able to physically respond immediately; and

c. Allow for visual supervision of all children while children are eating and shall be able to physically respond immediately to any child.

(c) The only exception to (b)(2)a. above shall be children 4 years and older may leave the classroom to use a bathroom located on the same level as the classroom, provided that child care staff are aware of each child leaving the classroom to use the bathroom and the level of the building that the bathroom is located on is used exclusively by the child care program.

(d) Video monitors shall not replace the supervision of children, except as provided for in He-C 4002.25(j) and (k).

(e) In family child care homes and small child care centers, child care staff who are working alone shall supervise children in accordance with the following:

(1) The child care staff may step away from the children to meet basic care needs throughout the day, provided that:

a. The time away is time limited; and

b. The child care staff shall always be able to hear all children preschool age and younger and be able to physically respond immediately, if necessary;

(2) The child care staff shall always know the whereabouts and activities of all school age children and shall be able to physically respond immediately;

(3) The child care staff may allow school-age children 6 years of age and older to play outside when the child care staff is inside, with written parental or guardian permission; and

- (4) When children are eating, the child care staff shall be positioned to allow for visual supervision of all children and shall be able to physically respond immediately to any child.
- (f) Child care staff shall not carry a child while stepping over a low wall, gate, or other similar barrier.
- (g) Child care staff shall protect younger or less mobile children from accident or injury which could be caused by older or more physically active children.
- (h) The program shall obtain the following documents from the parents or guardians of each child with a food allergy or other allergy, which results in a serious reaction:
- (1) A written care plan that includes instructions regarding food(s) or other allergens to which the child is allergic and steps for child care staff to take to avoid the allergens; and
 - (2) A written treatment plan, detailing the treatment to be implemented in the event of an allergic reaction, which shall include:
 - a. The names, doses, and methods of prompt administration of any medications, where the medication needs to be stored in relation to the child, taking into consideration the storage requirements in He-C 4002.20(j)(2), and instructions on how to administer the prescribed medication; and
 - b. Specific symptoms that would indicate the need to administer one or more medications.
- (i) At all times, at least one child care staff supervising a child with an allergy care plan shall have completed the training specified in He-C 4002.32(b)(5).
- (j) The program manager or their designee shall notify a child's parent or guardian when the program deviates from the planned menu as indicated on children's allergy care plans, as applicable.
- (k) With permission of the parent or guardian, the program shall post each child's allergy care plan and treatment plan in the kitchen or food preparation area, the child's classroom, and wherever the child might have contact with the allergen(s).
- (l) In the event a parent or guardian does not authorize posting of their child's allergy care plan or treatment plan as required in (k) above, the program shall not post the plans, but ensure the plans are available in the locations in (k) above, and all staff working in those locations know where the plans are and review the plans upon entering those locations.
- (m) All child care staff responsible for food preparation and food service, and all child care staff responsible for supervising children with an allergy, including staff covering breaks, shall read and familiarize themselves with the allergy care plans and treatment plans, to ensure that no child is accidentally exposed to an allergen.
- (n) The program manager or their designee shall immediately notify a child's parent or guardian in the event of a suspected allergic reaction or ingestion of or contact with a known allergen, even if a reaction did not occur.
- (o) Program staff shall notify emergency services immediately whenever staff administer epinephrine (Epi-pen) to a child.
- (p) Programs shall be equipped with a telephone that is operable and accessible to all child care staff during all operating hours for incoming and outgoing calls. The phone may be a cellular phone or a landline.

(q) Child care staff shall report any occurrence of a missing child to emergency services, as soon as child care staff have determined that the child cannot be promptly located on the premises of the child care program.

(r) There shall be at least one staff person present with all children during all operating hours, both on and off premises, who is trained and currently certified in pediatric cardiopulmonary resuscitation (CPR) and first aid, which shall be obtained by the American Red Cross, American Heart Association, Emergency Care and Safety Institute, National Safety Council, American Trauma Event Management, or other nationally recognized organization.

(s) CPR and first aid training as specified in (r) above may be received via correspondence or on-line, provided a skill test is required to be performed prior to becoming certified.

(t) Programs shall maintain on file, available for review by the department, copies of current CPR and first aid certificates and licenses.

(u) Programs shall have on the premises and on all field trips, a selection of non-expired first aid supplies adequate to meet the needs of the children.

(v) Programs shall store the first aid supplies required under (u) above in a portable container, in a location that is accessible by staff.

He-C 4002.20 Administration and Storage of Medication.

(a) For the purposes of this section, “administer” means an act whereby a single dose of a medication is instilled into the body of, applied to the body of, or otherwise given to a child for immediate consumption or use.

(b) For programs that administer medication:

(1) Only authorized staff, a registered nurse (RN), licensed practical nurse (LPN), or licensed practitioner shall administer prescription and over-the-counter medications to children, in accordance with the child’s medication order;

(2) Authorized staff shall administer only those medications for which there is a medication order provided by a licensed practitioner, and written permission from the parent or guardian; and

(3) Programs shall not accept any prescription medications that do not include a prescription label or medication order from a licensed practitioner.

(c) Each medication order shall legibly display:

(1) The child’s name;

(2) The medication name, strength, the prescribed dose and method of administration;

(3) The frequency of administration;

(4) The indications for usage of all medications to be used pro re nata (PRN), meaning when necessary; and

- (5) The dated signature of the licensed practitioner for orders other than the prescription label.
- (d) Medication orders for PRN medication shall include:
 - (1) The indications and any special precautions or limitations regarding administration of the medication;
 - (2) The maximum dosage allowed in a 24-hour period;
 - (3) The dated signature of the parent or guardian for topical substances or over-the-counter medication; and
 - (4) For other than the prescription label, the dated signature of the licensed practitioner for prescription medication.
 - (e) In the event of a medication error in the administration of medication, the family child care provider, center director, site director, or designee shall notify the child's parents or guardians immediately.
 - (f) Prior to administering prescription and over-the-counter medication to any child, child care staff shall complete and document training on medication administration, as required by He-C 4002.32(b)(4), delivered by the department, a physician, RN, or LPN practicing under the direction of an APRN, RN, or physician, or online training approved by the department.
 - (g) Authorized staff shall complete training in medication safety and administration every year.
 - (h) For each child receiving medication, child care staff shall maintain medication information on file and available for review by the department, including medication orders, parental or guardian authorization to administer medication, and information regarding a child's allergies, if applicable.
 - (i) Child care staff shall maintain a written record for each dose of medication administered to each child, which shall:
 - (1) Be completed by the authorized staff who administered the medication immediately after the medication is administered; and
 - (2) For each administered medication, include at a minimum:
 - a. The name of the child;
 - b. The date and time the medication was taken;
 - c. A notation of any medication error or the reason why any medication was not taken as ordered or approved;
 - d. The dated signature of the authorized staff who administered the medication to the child; and
 - e. For administration of a PRN, documentation shall also include the reason for administration.
 - (j) 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;
- (3) Stored in a secondary container separate from food if in a refrigerator; and
- (4) Labeled with the child's name to ensure correct identification of each child's medication.

(k) Medications such as insulin, inhalers, and epi-pens shall be readily accessible to child care staff caring for children requiring such medications, to assure timely administration when needed and in accordance with parental or guardian instructions in He-C 4002.19(h)(2)a.

(l) Programs may permit school-age children to possess medications described in (k) above provided there is written authorization from the prescribing licensed practitioner and written permission from the child's parent or guardian on file at the program.

(m) The only exception to (l) above shall be when a school-age child is with children younger than 6 years of age, insulin, inhalers, and epi-pens shall not be in the school-age child's possession but shall be readily accessible to child care staff.

(n) All medications belonging to child care staff shall be stored separate from children's medications in a locked area, or otherwise inaccessible to children.

(o) All prescription or over-the-counter medication shall be kept in the original containers or pharmacy packaging and properly closed after each use.

(p) Topical substances shall be labeled with ingredients and indicated use.

(q) Any contaminated, expired, or discontinued medication, whether prescription or over-the-counter, and topical substances shall be returned to the child's parents or guardians whenever possible or, if belonging to the program, disposed of properly by authorized staff.

(r) Child care staff shall administer over-the-counter medications in accordance with the manufacturer's instructions or written instructions from the child's licensed practitioner.

(s) Programs that opt to obtain epinephrine devices for use in emergencies, in accordance with RSA 329:1-h, II, shall have and abide by a policy for the storage, maintenance, control, and general oversight of epinephrine devices acquired by the program, for compliance with RSA 329:1-h, III.

(t) Pursuant to RSA 329:1-h, V, programs that opt to obtain a prescription for epinephrine devices under (s) above shall designate and train authorized staff to administer epinephrine in accordance with the following:

- (1) Authorized staff shall complete an anaphylaxis training program at least every 2 years, following completion of the initial anaphylaxis training program;
- (2) Such training shall be conducted by a nationally recognized organization experienced in training unlicensed persons in emergency health care treatment or an entity or individual approved by the board of medicine;
- (3) Training may be conducted online or in person and, at a minimum, shall cover:
 - a. How to recognize signs and symptoms of severe allergic reactions, including anaphylaxis;

b. Standards and procedures for the storage and administration of an epinephrine device; and

c. Emergency follow-up procedures; and

(4) The certificate of completion for the training shall be on file for review by the unit.

He-C 4002.21 Approval of Child Care Space and License Capacity: Indoors and Outdoors.

(a) Prior to use for child care, all indoor and outdoor child care space shall be:

(1) Inspected and approved by the local fire inspector, in accordance with RSA 170-E:6 and He-C 4002.02(e)(3);

(2) Inspected and approved by the local health officer, in accordance with RSA 170-E:6 and He-C 4002.02(e)(2); and

(3) Inspected by the department in accordance with RSA 170-E:8, III, and RSA 170-E:9, II, and these rules.

(b) The licensee shall provide and maintain at least one toilet and one handwashing sink for every 20 children of their licensed capacity.

(c) There shall be a minimum of 35 feet of net floor area per child, inside the rooms used by children, calculated by excluding non-occupiable spaces including corridors, stairs, bathrooms, electrical or mechanical rooms, closets, and fixed equipment, which shall be subtracted from the total area to determine the net floor area.

(d) The department shall determine the license capacity by adding the number of children each room can accommodate based on (c) above, and in accordance with local fire, health, and zoning approvals.

(e) The department shall not consider common space, hallways, lockers, bathrooms, cooking areas of the kitchen, closets, or offices as child care space when determining license capacity.

(f) The program shall have space of its own, apart from other groups that might be using the facility, during the time that it operates.

(g) Programs which are in the same building with other licensed entities or programs for children that are license exempt, pursuant to RSA 170-E:3, shall:

(1) Not be responsible for or supervise any children not enrolled in the licensed program;

(2) Not allow children from the license exempt program to mix with children enrolled in the licensed program; and

(3) Not allow children from the license exempt program to share space that is being used by children enrolled in the licensed program.

(h) Programs shall not overcrowd child care space with adult-sized furniture or other items.

(i) For programs licensed before November 23, 2008, whose capacities included the use of common space as described in rules previous to that date, shall be allowed to have no more than up to 2 children over the classroom capacity, regularly assigned to each classroom, provided the common space was approved by and is on file with the department.

(j) For programs licensed before May 30, 1998, whose capacities included the use of common space as described in rules previous to that date, shall be allowed to have no more than up to 4 children over the classroom capacity, regularly assigned to each classroom, provided the common space was approved by and is on file with the department.

(k) Programs shall be equipped with an outside play area, which directly adjoins the indoor space of the facility and contains a minimum of 50 square feet of outdoor play area for each child based upon the program's license capacity.

(l) The only exceptions to (k) above are as follows:

(1) Programs may utilize department approved outdoor play space which is located within 1/8 of a mile from the program, provided the program submits a written plan to the department showing that children can safely travel to and from the play area and the program;

(2) Programs may operate with 50 square feet of outdoor play area per child for 1/3 of the program's license capacity, provided that no more than 1/3 of the license capacity is in the play area at one time; and

(3) Programs that operate 5 or fewer hours per day provided the curriculum includes at least 20 minutes of gross motor activities.

(m) For programs operating exclusively outdoors, the department shall determine the license capacity based on the area of outdoor space and the proposed staffing patterns as specified in these rules.

He-C 4002.22 Health and Safety Requirements for Indoor Space.

(a) Child care staff shall ensure that the indoor space is:

(1) Safe, clean, free of clutter, and in good repair;

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

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

(4) Well-lit and arranged to provide clear pathways for staff and children to move about safely and to allow for the visual supervision of children by staff;

(5) Free of damp conditions which result in visible mold, mildew, or a musty odor;

(6) Free of heavy furnishings or items not secured to the wall or floor that could easily tip or are unstable;

(7) Free of fumes from toxic or harmful chemicals or materials;

- (8) Free of tripping hazards, exclusive of toys and equipment when in use by children; and
- (9) Free of poisonous plants.

(b) Child care staff shall ensure that potentially harmful items, including but not limited to matches, lighters, chemicals, materials labeled “harmful if swallowed,” flammable materials, sharp objects, and staffs’ personal belongings are locked or inaccessible to children.

(c) All substances labeled “harmful if swallowed” or “flammable” and all containers storing cleaning materials shall be labeled as to the contents and stored separately from food and medications.

(d) Non-toxic materials labeled “keep out of reach of children” shall only be used during a teacher-directed activity.

(e) Cords or strings long enough to encircle a child’s neck, such as cords on window blinds, curtains, or shades, shall be kept out of children’s reach.

(f) Child care staff shall ensure that the presence of pets in the program does not present a hazard to the children, including but not limited to:

- (1) Reptiles, amphibians, and birds, including baby chicks and ducklings, shall not be permitted in rooms or outdoor spaces regularly occupied by children;
- (2) When bringing animals into a child care, staff shall supervise children when the animals are available, designated areas shall be cleaned and sanitized after animal contact, and food or drink shall not be consumed in these areas;
- (3) Cages or other habitats shall be cleaned of all fecal material and sanitized on an as needed basis but no less than once per week;
- (4) Staff shall wear gloves while cleaning animal cages or habitats;
- (5) All staff and children shall wash hands with soap and warm running water after contact with animals or their cages or habitats; and
- (6) Dogs, cats, and ferrets shall be kept clean and free of parasites, fleas, ticks, mites, and lice, and vaccinated against rabies, with proof of current vaccination on site at the program and available for review by department staff.

(g) Programs shall maintain bathroom facilities in accordance with the following:

- (1) Sinks, toilets, footstools, potty chairs, and adapters shall be cleaned and sanitized at least once a day and when visibly soiled;
- (2) Bathroom floors and other surfaces adjacent to toilets, including but not limited to walls, shall be cleaned and sanitized at least weekly, and when visibly soiled; and
- (3) Toilet paper, individual cloth or paper towels, and liquid soap from a dispenser shall be available and accessible to children and staff.

(h) The program shall take prompt action to eliminate insects or rodents, and clean and sanitize all surfaces where there is visible evidence of their presence.

(i) Pesticides shall not be used in areas used by children while children are present, and shall be used per manufacturers’ instructions.

(j) Programs shall maintain the child care space in compliance with Saf-FMO 300 and Saf-C 6000 by not blocking exits, or evacuation routes, including doorways, hallways, and stairs that are a means of egress, and by maintaining smoke detectors in working order.

(k) The licensee shall prohibit smoking and vaping in the building anytime for center-based programs or during operating hours for family child care homes.

(l) Child care staff who smoke or vape during their breaks shall not do so in view of children or while responsible for the care of children.

(m) Child care staff who smoke or vape shall wash their hands and change into fresh clothing or remove smoke contaminated outerwear prior to working with children.

(n) There shall be adequate space for each child's possessions, such as individual cubbies, lockers, baskets, or bins.

(o) Children's toothbrushes shall be stored separately to air dry and be labeled with each child's name.

(p) All windows used for ventilation shall include screens in good repair, to prevent insects from entering the building.

(q) Garbage shall be disposed of in a lined and covered container and staff shall empty trash containers daily or sooner if contents create an odor or a health risk.

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

(s) In programs serving children younger than 3 years old, the licensee shall ensure that there are barriers placed at the top and bottom of stairwells opening into areas used by children younger than 3 years, unless prohibited by building or fire department regulations. Pressure gates at the top of stairs shall not be used.

(t) Open stairways used by children younger than school age shall have railings or banisters installed along the open or unprotected side(s).

(u) Programs shall:

(1) Have a safe, functioning heating system;

(2) Maintain a temperature of not less than 65 degrees Fahrenheit whenever children are present; and

(3) Protect children from contact with exposed heat sources, including steam and hot water pipes, and radiators, via the use of permanent screens, guards, insulation, or another suitable device that prevents children from coming in contact with them.

(v) Prior to using portable space heaters or portable radiators in child care space, programs shall obtain written approval from the local fire inspector with documentation of the approval available for review by department staff during on-site visits.

(w) All portable space heaters or radiators 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);
- (3) Be placed at least 3 feet from curtains, papers, furniture, or any other flammable object; and
- (4) Be installed and operated in accordance with the manufacturer's specifications.

(x) All fuel burning stoves, including but not limited to wood, coal, pellet, or gas, when used during child care, shall:

- (1) Meet applicable local and state codes with documentation of such approval available for review by department staff during on-site visits; and
- (2) Be maintained in a manner that ensures the safety of all children, by use of partitions, screens, guards, or other similar barricades, as approved by the local fire official.

(y) Child care staff shall be in the room with children whenever a fireplace is in use.

(z) All working fireplaces in space used by children shall:

- (1) Have a secure child proof barrier in place at all times; and
- (2) Be equipped with padding or otherwise protected if the hearth presents a hazard to children.

(aa) Guns, weapons, or live or spent ammunition shall be locked, and the key or code used to lock these items shall be stored separately and out of the reach of children.

(ab) Pursuant to 40 CFR 745, when interior surfaces of a building built prior to 1978 are in a deteriorating condition, including but not limited to flaking, chipping, and peeling paint, or are subject to renovations or construction, the licensee shall utilize a U.S. Environmental Protection Agency certified Renovation, Repair, and Painting (RRP) contractor, in accordance with 40 CFR 745.90(a) and (b) and He-P 1600.

(ac) In addition to (ab) above, until the deteriorated surfaces can be made intact, the program shall provide the department with a plan, in writing, that ensures children will not have access to those surfaces and includes the expected date of completion of the work.

(ad) 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.

(ae) When there is information or evidence indicating that the building might contain asbestos hazards, programs shall submit evidence that the building has been inspected by a licensed asbestos inspector and is free of asbestos hazards or submit a plan of action to reduce or eliminate any existing contamination to be approved by the department.

(af) When there is information indicating that the building or water supply might contain radon hazards, programs shall submit evidence that the building has been inspected by a licensed radon inspector and is free of radon hazards or submit a plan of action to reduce or eliminate any existing contamination to be approved by the department.

(ag) Child care staff shall immediately clean and sanitize spills of bodily fluids using soap and water and then disinfectant.

(ah) Child care staff shall:

- (1) Wear non-porous gloves when cleaning bodily fluid spills;
- (2) Place soiled clothing in a plastic bag, tied securely and return the items to the child's parent or guardian at pick up;
- (3) Dispose materials contaminated by bodily fluids in a plastic bag with a secure tie or in covered, plastic bag-lined, hands-free receptacle;
- (4) Clean, rinse, disinfect, wring, and hang to dry mops used to clean bodily fluids; and
- (5) Immediately wash their hands with soap and running water after discarding the gloves.

(ai) Programs shall place American Society for Testing and Materials (ASTM) gymnastic standard mats under and extending at least 39 inches beyond the fall zone of all indoor swings and climbing equipment, including slides or lofts, which would allow a fall from a height of more than 29 inches.

He-C 4002.23 Health and Safety Requirements for Outdoor Space.

(a) The play area shall:

- (1) Be accessible to children with disabilities;
- (2) Be appropriate for each age group served, including use of toys and equipment that is age and developmentally appropriate to the needs of the children enrolled;
- (3) Provide for both direct sunlight and shade; and
- (4) Be free from trash, feces, and hazardous or dangerous areas, items, or materials.

(b) Fencing shall enclose all play areas if the department determines the play area is unsafe or poses a risk of injury to children 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 dangerous area.

(c) 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 preschool 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.

(d) The licensee shall protect outdoor play space located on a roof with a barrier at least 7 feet high, which children cannot climb.

(e) The licensee shall install suitable barriers, including but not limited to bulkhead doors, to prevent falls into outdoor stair or window wells.

(f) The department shall approve porches and decks before use as play areas.

(g) Porches and decks shall comply with the following:

- (1) If they are more than 3 feet from ground level, there shall be protective railings in accordance with applicable building codes;
- (2) Railings shall be sturdy and constructed in a way that will prevent a young child from going underneath, over, or through them;
- (3) There shall be a child safety gate or other barricade on stairs whenever the porch or deck is in use by children younger than 3 years old; and
- (4) The family child care provider, center director, or site director shall monitor the condition of porches and decks to ensure that there are no splinters, cracks, or protruding nails or screws, and discontinue use of the area until repairs are complete.

(h) For outdoor play equipment that would allow a child to fall from a height of more than 29 inches, programs shall:

- (1) Equip and maintain the ground area under and extending at least 39 inches beyond the external limits of such equipment with an energy absorptive surface; and
- (2) Utilize an energy absorptive surface, required by (1) above, that:
 - a. Does not present a choking hazard if used by children younger than 3 years;
 - b. Is checked and raked regularly to remove any foreign matter, correct compaction, and increase absorption; and
 - c. Is a unitary surface documented by the manufacturer in accordance with the standards of ASTM International’s “ASTM F1292 Standard Specification for Impact Attenuation of Surfacing Materials Within the Use Zone of Playground Equipment” (2022 edition), available as noted in Appendix B, and installed per manufacturer’s instructions or conforms with Table 4.2.1 below:

Table 4.2.1 Energy Absorptive Surface

Fall Height of Equipment	Wood Chips	Bark Mulch	Engineered Wood Fibers	Sand	Pea Gravel	Shredded Rubber
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30 inches to 5 feet	6 inches	6 inches	6 inches	9 inches	9 inches	6 inches
6 feet	6 inches	6 inches	6 inches	N/A	12 inches	6 inches
7 feet	6 inches	9 inches	9 inches	N/A	N/A	6 inches
8 feet	9 inches	9 inches	12 inches	N/A	N/A	6 inches
9 feet	9 inches	9 inches	12 inches	N/A	N/A	6 inches
10 feet	9 inches	9 inches	12 inches	N/A	N/A	6 inches

(i) To prevent injury, programs shall not:

- (1) Allow children to play on equipment or structures that require energy absorptive material pursuant to (h) above when the energy absorptive material is compacted and unable to be loosened, such as when frozen; and
- (2) Place infant and toddler play equipment or structures that do not require energy absorptive materials on tar, pavement, cement, or other similar materials.

(j) All fencing, balusters, handrails, and guardrails, or slats on lofts, stairways, decks, porches, or balconies that are accessible to children shall be constructed and maintained to prevent entrapment hazards.

(k) All swimming pools on the premises of the child care program and used as part of the child care operations shall be clean and maintained in accordance with the manufacturer’s or installer’s printed instructions regarding cleaning, filtration, and chemical treatment.

(l) All swimming pools on the premises of the child care program shall be inaccessible to children in accordance with the following:

- (1) In-ground pools shall be enclosed by a fence with a gate equipped with a child proof, self-latching device and a lock;
- (2) Above ground pools shall be enclosed by a fence with a gate which has a child proof, self-latching device and a lock, or equipped with a lockable gate, lockable swing up stairway, or other lockable barrier to prevent access to the stairs or ladders, or otherwise make the pool inaccessible to children;
- (3) A pool that is directly accessible from inside the building shall have a secure, lockable barrier that meets the requirements in (1) and (2) above to make the pool inaccessible to children;
- (4) Pool gates, fences, or other barriers as required in (1), (2), and (3) above shall be locked during all operating hours, except when the children are involved in a supervised water activity in the pool; and
- (5) The keys, combinations, or other means to open the locks required in (1) through (4) above shall not be accessible to children.

(m) Each swimming pool shall be equipped with a ring buoy and attached rope of sufficient length to reach the center of the pool from the edge of the pool and shall be kept out of children’s reach.

(n) 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.

(o) Pursuant to 40 CFR 745 when exterior surfaces of a building built prior to 1978 are in a deteriorating condition, including but not limited to flaking, chipping, and peeling paint, or are subject to renovations or construction, a U.S. Environmental Protection Agency certified Renovation, Repair, and Painting (RRP) contractor shall be utilized, in accordance with 40 CFR 745.90(a) and (b) and He-P 1600.

(p) In addition to (o) above, until such time as the deteriorated surfaces can be made intact, the program shall provide the department with a plan, in writing, that ensures children will not have access to those surfaces and includes the expected date of completion of the work.

He-C 4002.24 Learning Materials, Toys, and Equipment.

(a) Programs shall provide toys, equipment, furniture, and learning materials that are:

- (1) Age and developmentally appropriate;
- (2) Of sufficient quantity and variety to meet the needs of the children cared for in the program;
- (3) Available and accessible to children;
- (4) Cleaned on a regular basis;
- (5) Cleaned and sanitized after each use for toys or items mouthed by a child;
- (6) Sturdy and safely constructed and installed;
- (7) Maintained in a safe, secure, and workable condition, free from lead paint, protruding nails, splinters, rust, and other hazards that might be dangerous to children; and
- (8) Used in a safe manner, in accordance with manufacturer's instructions.

(b) Infants and toddlers in elevated seating equipment shall be secured in the equipment as instructed by the manufacturer.

(c) Child care staff shall not use any equipment, materials, furnishings, toys, or games identified by the U.S. Consumer Product Safety Commission as being hazardous.

(d) All play equipment and structures shall be free of entrapment hazards, including gaps that are between 3 ½ inches and 9 inches apart on balusters, handrails, guardrails, or slats on play structures, lofts, stairways, decks, porches, or balconies, that are accessible to children.

(e) Child care staff shall not allow children younger than 3 years of age to have access to toys, toy parts, and other materials that pose a suffocation or choking risk or are small enough to be swallowed, including, but not limited to, coins, balloons, exposed foam padding, or empty plastic bags.

(f) The only exception to (e) above for children age 24 months to 3 years shall be during teacher directed activities under direct supervision by child care staff, provided there is written parental or guardian consent on file acknowledging their understanding that the program uses small items during teacher directed and supervised activities.

(g) Infants shall not be placed in any equipment, including but not limited to stationary activity centers that require them to support their heads on their own if they have not yet acquired that ability.

(h) Baby walkers with wheels are prohibited in programs.

(i) Toy boxes accessible to children used to store any child care materials and equipment shall have a safety lid support or not have a lid.

(j) Infants shall only have access to toys with strings or cords up to 6 inches in length.

(k) Toddlers shall only have access to toys with strings or cords up to 12 inches in length, or any length for a teacher-directed activity.

(l) Except for therapeutic equipment or small trampolines intended for individual use with direct adult supervision, the use of trampolines by enrolled child care children, whether indoors or outdoors, is prohibited.

He-C 4002.25 Rest and Sleep.

(a) Child care staff shall arrange cribs, cots, beds, mats, or playpens in a manner that ensures that:

(1) They do not block passageways and exit routes, to allow for emergency evacuation and access to each child by staff;

(2) They are spaced at least 2 feet apart while in use or separated by a solid divider on one side only, allowing for adequate supervision by staff and air circulation; and

(3) Children are placed head to toe.

(b) Programs shall ensure that each child requiring rest or sleep is provided with a sleeping bag, crib, cot, bed, or mat.

(c) Each infant 12 months of age and younger shall be placed on their back to sleep in an individual crib or play pen, unless they have demonstrated the ability to climb out.

(d) Child care staff shall discontinue using cribs or play pens with children who have demonstrated the ability to climb out of them.

(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 the U.S. Consumer Product Safety Commission (CPSC) accepted third-party lab, provided by the manufacturer documenting the crib's compliance with 16 CFR 1219 and 1220.

(f) Cribs and play pens required under (c) above shall:

(1) Not be stacked;

(2) Be in good repair;

(3) Not have holes or tears in the mesh walls or in the material that connects the walls to the bottom of the crib or play pen;

(4) Have tight fitted sheets designed for the size mattress that do not compress the mattress;

(5) Not have bumper pads, blankets, flat sheets, pillows, quilts, comforters, sleep positioners, or any items or toys with infants up to 12 months of age; and

(6) Have mattresses which are in good repair, free of rips or tears, and fit the crib or playpen so that the space between the mattress and crib or playpen is not more than 1 inch wide and does not create a suffocation hazard.

(g) If an infant up to 12 months falls asleep outside of their crib or play pen, including entering the program asleep in a car safety seat, staff shall immediately move the infant and place them on their back in a crib or play pen.

(h) When child care staff place infants in their crib or play pen for sleep, they shall check the infants to ensure that they are comfortably clothed and not overheated or sweaty, and that bibs and garments with ties or hoods are removed.

(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 licensed practitioner.

(j) In family and family group child care homes and small child care centers, use of an electronic monitor shall only be used to monitor sleeping children on the same level in lieu of direct supervision, in accordance with the following:

(1) There is written authorization on file from the parents or guardians of the child, indicating that they are aware of and agree to the use of the monitor;

(2) The child care staff responsible for their supervision can easily hear sounds from the monitor and respond; and

(3) Every 15 minutes, the child care staff responsible for their supervision conduct in-person checks of infants and toddlers sleeping in a crib or playpen, to ensure that each child is safe and comfortable, including a check of their faces, viewing the color of their skin and to check on their breathing.

(k) In center-based programs, use of an electronic monitor, whether only audio or both audio and visual, shall be permissible in lieu of having staff in the same room with only infants or toddlers sleeping in cribs or playpens, in accordance with the following:

(1) There is written authorization on file from the parents or guardians of the child, indicating that they are aware of and agree to the use of the monitor;

(2) The child care staff required to maintain ratio are located in an adjoining room where they can easily hear sounds from the monitor and respond; and

(3) Every 15 minutes, the child care staff conduct in-person checks of infants and toddlers sleeping in a crib or playpen, to ensure that each child is safe and comfortable, including a check of their faces, viewing the color of their skin and to check on their breathing.

(l) Blankets, sleeping bags, bedding, cots, and mats shall be stored in a manner that ensures that sleeping surfaces are not touching, or the items shall be washed and sanitized before re-use if stored in a way that sleeping surfaces are touching.

(m) All bedding shall be cleaned at least once a week and more frequently if soiled, and between uses by different children.

(n) Programs shall provide children who attend for more than 5 hours with an opportunity for at least one hour of quiet activities, rest, or sleep, in any combination to equal one hour, depending on the needs of each child.

(o) Programs shall allow children time to fall asleep and awaken at their own pace within a block of time set aside as nap or rest time.

(p) Programs shall provide children who do not fall asleep after 30 minutes with an opportunity to do a quiet activity.

(q) Child care staff shall not:

(1) Require that children who are awake stay on mats, sleeping bags, cots, or beds for more than 60 minutes; or

(2) Require children to sleep.

(r) For children 24 months through 5 years, during naptime, a center-based program may have one less staff person in a classroom than required to meet ratios in accordance with He-C 4002.35 through He-C 4002.36 provided that:

(1) The total number of child care staff required to maintain all ratios are on the premises of the program;

(2) The ratio of awake children to staff in the classroom shall be no more than half the number of children as stated in He-C 4002.35 through He-C 4002.36;

(3) Rooms in which staff is reduced shall be equipped with a two-way communication system to allow for immediate contact with other staff for assistance and response;

(4) There is a safety plan on file for review by the department, child care staff, and parents or guardians which includes plans or procedures for:

a. Evacuation;

b. Supervision;

c. Environment;

d. Schedule;

e. Naptime policy; and

f. Staff training and support;

(5) The program provides parents or guardians with written notice of the reduction of staff; and

(6) Documentation of the written notice in (5) above shall be available for review by department staff during visits.

(s) During rest and sleep, programs shall always maintain ratios for children under 24 months, in accordance with He-C 4002.35 and 4002.36, except as specified in (t) below.

(t) Ratios for children under 24 months in mixed age groups with children 24 months and older shall be based on the average age of the children in each group during naptime, in accordance with (s) above.

(u) Programs shall base the staff to child ratio on the average age of the children in each group in accordance with (t) above when there are mixed age groups in the same room.

(v) No child shall wear a necklace during nap time or during sleep, unless the necklace is fused or has a fixed knot such that it cannot be removed.

He-C 4002.26 Water Testing and Sewage Disposal.

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

(b) Hot water shall be at least 85 degrees Fahrenheit and available at all indoor sinks during operating hours.

(c) Hot water at taps which are accessible to children shall have an automatic control to maintain a temperature at the tap of not higher than 120 degrees Fahrenheit.

(d) Programs that have their own independent water supply and are not considered to be public water systems as defined in RSA 485:1-a, XV and confirmed by the New Hampshire department of environmental services (NHDES), shall test their water supply utilizing a laboratory accredited under the environmental laboratory accreditation program in accordance with Env-C 300.

(e) New applicants that have their own independent water supply shall submit with their application documentation of water test results completed not more than 90 days prior to the date of submission of the application for arsenic, bacteria, nitrate, nitrite, lead, both stagnant and flushed, copper, both stagnant and flushed, fluoride, uranium, radon, manganese, and PFAS.

(f) In addition to (d) and (e) above, programs that have their own independent water supply shall conduct ongoing water testing and maintain the results on file at the program, available for review by the health officer and the department, in accordance with the following:

- (1) Once every 3 months for bacteria;
- (2) Annually for arsenic, nitrate, and nitrite; and
- (3) At least once every 3 years for stagnant lead, stagnant copper, fluoride, and manganese.

(g) The results of water tests required by (e) and (f) above, and results of any other water tests, shall comply with the maximum contaminant levels established in Env-Dw 700 for bacteria, nitrates, nitrites, arsenic, and fluoride, and shall not exceed the action levels established in Env-Dw 714 for stagnant copper and RSA 485:17-a for stagnant lead, and when the manganese level exceeds 0.3 mg/L, as established in Env-Or 602.03, Table 600-1, alternate water sources shall be used for infants.

(h) Any program whose water test result has exceeded maximum contaminant levels or action levels in (g) above shall immediately contact the department to report that finding and provide the department with a plan for how it will ensure that children will not be at risk from exposure to the unsafe water.

(i) Within 30 days of the date a program learns that they have failed a water test, including programs on a public water system and programs with their own independent water supply, the program shall submit

to the department an acceptable corrective action plan which details what action will be taken to correct the unsafe condition of the water and a date by which that action will be complete, unless the program requests, either verbally or in writing, and the department agrees, to extend that deadline.

(j) The department shall extend the deadline in (i) above if it determines that the program can demonstrate that it has made a good faith effort to develop and submit the corrective action plan within the 30-day period but has been unable to do so, and that the health, safety, or well-being of children will not be jeopardized by granting the extension.

(k) When a program fails to submit a written proposed corrective action plan within 30 days of receiving the unacceptable test result under (g) above, the department shall initiate action to suspend the license or permit in accordance with He-C 4002.43(r) and (s), until such time as laboratory results meeting those requirements are received by the department.

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

(m) There shall be flush toilets in working order connected to a sewage disposal system.

(n) Any program whose septic system is showing signs of failure shall immediately contact the department and the local health officer to inform them of the problem and provide an interim corrective action plan to include a timeline for repairs and how it will ensure that children will not be exposed to any risks from the failed septic system.

(o) Privies are permissible in lieu of, or in addition to flush toilets connected to a sewage disposal system, provided the privy complies with this section.

(p) The licensee shall obtain approval by the town health officer for use of a privy.

(q) The privy shall be constructed in accordance with Env-Wq 1022.01.

(r) There shall be running water for handwashing available and accessible inside the privy area or immediately upon exiting the privy.

(s) The contents of the pit shall be covered daily with lime or other suitable agent to eliminate insects and odors.

(t) The materials for liming and disinfection shall be kept in proximity to the privy where they are readily available for use and stored in a manner where children cannot access the contents.

(u) The privy and the pit shall be made fly-tight and provided with self-closing lids.

(v) Child care staff shall maintain the privy in clean and sanitary conditions at all times.

(w) The licensee shall maintain chemical toilets in accordance with Env-Wq 1600, which shall be pumped by a septage hauler licensed by the department of environmental services.

He-C 4002.27 Bathroom Requirements.

(a) Prior to use, the local health officer or designee and the department shall approve portable sinks intended for use to meet any of the requirements of He-C 4002.

(b) Toilet facilities shall afford privacy appropriate to the child's development and ability.

(c) Staff shall be able to hear children and respond when children need assistance and to prevent unsafe behavior.

(d) Programs licensed to care for children younger than 3 years of age shall provide potty chairs or adult toilets with adapters.

(e) Program staff shall place potty chairs within easy access to a toilet and sink to allow child care staff to proceed to the toilet to empty the potty chair and proceed to the hand washing sink without having to open doors or gates or have physical contact with other children.

(f) Programs staff shall not place potty chairs in food preparation areas or food service areas.

(g) Program staff shall empty and sanitize each potty receptacle after each use.

He-C 4002.28 Diapering and Toilet Learning.

(a) Programs serving diapered children and children who are not toilet trained shall have a diaper changing area, which shall be located adjacent to or in close proximity to a designated hand washing sink to allow access for hand washing without having to open doors or gates or have physical contact with other children.

(b) Children in diapers shall be changed on a non-porous, washable surface, used exclusively for diaper changing and sanitized after each diaper change.

(c) A covered, hand-free receptacle, lined with a plastic bag, shall be located within reach of the diaper changing area for disposal of soiled disposable diapers and cleansing articles.

(d) The diaper changing area shall not be in kitchens or in food preparation or food service areas, or on surfaces where food is prepared or served.

(e) In addition to the requirements in (a) through (d) above, in center-based programs the diaper changing area shall be:

(1) Located in the room where the children in diapers are cared for; and

(2) Equipped with a sink adjacent to or near the diaper changing area designated exclusively for adult and child hand washing after diaper changing or toileting.

(f) Programs shall not use a sink for hand washing after diapering or toileting if food preparation or washing dishes or eating utensils occurs in the sink.

(g) At least every 2 hours, child care staff shall check diapers or clothing to determine if they are soiled or wet, and change them if they are.

(h) During each diaper change, soiled areas of children shall be washed with single use cleansing articles such as baby wipes or soft paper towels that have been moistened with water.

(i) If an elevated diaper changing surface is used, child care staff shall remain at the elevated diaper changing surface and keep one hand on the child at all times while a child is on it.

(j) For each child there shall be a supply of clean diapers, clothing, and bedding for use as needed.

(k) Programs shall obtain written instructions from the parent or guardian for the use of non-disposable diapers, which shall include instructions for the sanitary handling, storage, and return of soiled diapers to the parent or guardian.

(l) Soiled disposable diapers and cleansing articles shall immediately be placed in a plastic bag lined, hands-free receptacle.

(m) 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.

(n) Covered hands-free receptacles used to dispose of diapers and cleansing articles shall be cleaned and sanitized at least once each day.

(o) Programs using a commercial diaper service shall handle soiled diapers in accordance with written instructions from the service, with a copy of the instructions available on site for review by the department upon request.

(p) Toilet learning shall be individualized, developmentally appropriate, conducted in accordance with a plan developed by each child's parents or guardians and child care staff, and never forced.

He-C 4002.29 Handwashing.

(a) Child care staff shall wash their hands with liquid soap and running water as needed and:

- (1) After each diaper change or toileting;
- (2) After handling any bodily fluid;
- (3) After cleaning up or handling the 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 hand washing with liquid soap and running water; and
- (2) Instruct, encourage, remind, or assist infants and children as needed throughout each day to wash their hands as necessary to comply with (a)(1) through (5) above.

(c) Sinks that are used for food preparation or clean up, including sinks used for getting water for baby bottles, rinsing bottles, or dishes, and washing toys, shall not be used for brushing teeth, hand washing after toileting, or diaper changing.

He-C 4002.30 Nutrition, Food Service, and Food Safety.

- (a) Child care staff shall assure that all food and drink served to children is:
 - (1) Safe for human consumption and free of spoilage or other contamination;
 - (2) Stored, prepared, and served in a manner consistent with safe food handling practices for the prevention of food borne illnesses, including those set forth in He-P 2300; and
 - (3) Stored in a way to protect it from dust, insects, rodents, overhead leakage, unnecessary handling, and all other sources of contamination.
- (b) Meals and snacks provided by programs shall meet US Department of Agriculture dietary allowances.
- (c) Child care staff shall assure that no more than 3 hours elapse between meals and snacks offered to the children.
- (d) Child care staff shall:
 - (1) Follow individual feeding schedules provided by the parent or guardian of each child who has not reached a developmental level which enables them to eat on schedule; and
 - (2) Comply with dietary restrictions as requested in writing by the parents or guardians of each child, due to food allergies, religious, or philosophical beliefs.
- (e) Child care staff familiar with children's allergy action plans and known allergens shall take steps to ensure that children are not served or exposed to the known allergens.
- (f) Child care staff shall not serve foods that 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.
- (g) In programs serving infants and toddlers, child care staff shall:
 - (1) Follow individual feeding schedules provided by the parent or guardian of each child who has not reached a developmental level, which enables them to eat on schedule;
 - (2) Not introduce new or solid foods to any child without the consent of their parent(s) or guardian(s), and as appropriate based upon their chewing and swallowing capability;
 - (3) Hold infants younger than 6 months of age or who are unable to sit in feeding chairs while being fed;
 - (4) Not hold more than one infant at a time to bottle-feed them;
 - (5) Not prop bottles; and
 - (6) Not feed infants or children while in a crib, or while on rest mats, beds, cots, or sleeping bags.
- (h) Child care staff shall dispose of, or return to the parent or guardian, milk, formula, or food unfinished by a child, as directed by the parent or guardian.
- (i) Breast milk and prepared formula shall be stored in covered containers, labeled with the child's name and dated.

(j) Breast milk shall be:

- (1) Used immediately or stored in the refrigerator no longer than 4 days;
- (2) Labeled as used and returned to the refrigerator after each feeding if there is any left-over in the bottle, if being returned to the parent or guardian; and
- (3) Not fed to the child if left unrefrigerated for more than 2 hours.

(k) Prepared formula shall be:

- (1) Used immediately or stored in the refrigerator no longer than 24 hours;
- (2) Discarded if not fed to an infant and left unrefrigerated for more than one hour; and
- (3) Discarded after each feeding, if there is any leftover in the bottle.

(l) Frozen breast milk shall be labeled and dated and stored in a freezer at 0 degrees Fahrenheit for no longer than 6 months.

(m) Thawed breast milk shall be used within 24 hours.

(n) Child care staff shall gently swirl the bottle of formula or breast milk to recombine the contents after warming by:

- (1) Holding under warm running water;
- (2) Placing in a container of lukewarm water; or
- (3) A waterless warmer.

He-C 4002.31 Field Trips, Water Activities, and Transportation.

(a) Programs that opt to allow child care staff to take children on routine or unplanned local trips, such as walks in the neighborhood, trips to the local library, or other routine errands, shall obtain a signed and dated general permission slip from each child's parent or guardian, which specifies all approved destinations and activities.

(b) Child care staff who take the children off the premises for trips under (a) above shall call parents or guardians or post a notice at the program, informing parents or guardians of the destination and route of any unplanned trips, and the estimated time of return to the program.

(c) The program manager shall obtain a signed and dated permission slip from each child's parents or guardians prior to allowing a child to participate in any water activities on or off the premises of the program, or any field trip off the premises of the program.

(d) The permission slip required in (c) above shall be retained by the program and available for review by the department for a minimum of 2 years after the date of the last water activity or field trip covered by the permission slip, and include:

- (1) For water activities, the date(s) and destination(s) covered by the permission slip, whether the child can swim, and the child's comfort level in or near water; and

- (2) For all other field trips, the date(s), destination(s), and activities covered by the permission slip.
- (e) Whenever the program provides transportation, it shall ensure that:
- (1) Any vehicle used for transportation of children is legally registered and inspected in accordance with the laws of the state where the owner of the vehicle resides;
 - (2) The vehicle is maintained in a safe operating condition, and is clean and free of obstructions on the floors and seats;
 - (3) The operator of any vehicle transporting children is at least 18 years old and holds a valid driver's license;
 - (4) The driver and any other attendants in the vehicle have received training in the safe transportation of children;
 - (5) The driver of the vehicle is alert and not distracted; and
 - (6) The driver of the vehicle takes attendance before and after each trip and conducts a complete vehicle inspection after every trip to ensure that no child is left alone in a vehicle at any time.
- (f) Child care staff shall not permit any child to remain in any vehicle unattended by staff of the child care program.
- (g) Any vehicle used to transport children, whether owned by the program, a child care staff member, or by a parent or guardian who is transporting children other than their own, shall have proof of current liability insurance.
- (h) Child care staff shall ensure:
- (1) The number of children riding in any vehicle does not exceed the number of persons the vehicle is designed to carry;
 - (2) Individual, age-appropriate child restraints or seat belts are provided for and used by each child in accordance with RSA 265:107-a, and the driver and any other adults shall use their seatbelts when transporting children; and
 - (3) All children remain seated when the vehicle is in operation.
- (i) Child care staff shall carry on all field trips:
- (1) A copy of each child's registration and emergency information forms;
 - (2) A first aid kit in the vehicle whenever children are present;
 - (3) A copy of the parental or guardian permission slip for the field trip;
 - (4) A record documenting that staff accounted for each child every time they entered or exited the vehicle;
 - (5) All emergency and currently prescribed child medications, as applicable; and
 - (6) In each vehicle, a form that includes the program name, address, and phone number.

(j) There shall be a working cell phone or other mechanism for making emergency telephone calls available in each vehicle during transport.

(k) All swimming pools and wading pools on the premises of the child care program and used as part of the child care operations shall be supervised in accordance with the following:

(1) Child care staff shall supervise children at all times when they have access to wading pools that have water in them;

(2) Child care staff shall not allow children inside the wading pool, swimming pool area, or in the swimming pool without adult supervision; and

(3) There shall be at least one staff person who is currently certified in CPR and who has completed a water safety training within the previous 3 years always present with the children during any water activity, and whenever children have access to swimming pools or other bodies of water.

(l) When children are engaged in water activities, an adult who reports that they know how to swim shall always be present with children.

(m) Child care staff who are responsible for children engaged in water activities shall be able and willing to immediately respond to any child in the water who needs assistance.

(n) Lifeguards, swimming instructors, and similar individuals not employed by the program shall not be considered as staff to meet required staff to child ratios and supervision unless they are responsible only for the children participating in the field trip.

(o) The program manager shall maintain staff to child ratios and minimum staffing requirements during routine daily transportation and other routine trips such as walks in the neighborhood and trips to the local library.

(p) Center-based programs shall staff water activities in accordance with the following:

(1) For children ages 24 to 35 months the maximum group size shall be 8 children, with a ratio of one staff to 2 children;

(2) For children ages 36 to 47 months the maximum group size shall be 12 children, with a ratio of one staff to 4 children;

(3) For children ages 48 to 59 months the maximum group size shall be 18 children, with a ratio of one staff to 6 children; and

(4) For children ages 56 months and older, if licensed as a school age program, the maximum group size shall be 24 children, with a ratio of one staff to 8 children.

(q) Center-based programs shall staff field trips in accordance with the following:

(1) For children 18 months and younger the maximum group size shall be 6 children, and the ratio shall be one staff to 3 children;

(2) For children ages 19 to 35 months the maximum group size shall be 12 children, with a ratio of one staff to 4 children;

- (3) For children ages 36 to 47 months the maximum group size shall be 18 children, with a ratio of one staff to 6 children;
 - (4) For children ages 48 to 59 months the maximum group size shall be 20 children, with a ratio of one staff to 8 children; and
 - (5) For children ages 56 months and older, if licensed as a school age program, the maximum group size shall be 24 children, with a ratio of one staff to 10 children.
- (r) At least one child care staff or volunteer with each group of children in (p) and (q) above shall be 21 years of age or meet the qualification requirements to be alone with children.
- (s) In a center-based program, the staff to child ratio and maximum group size for a mixed age group of children participating in any field trip or water activity shall be based on the age of the youngest child in the group.
- (t) Center-based programs may exceed the maximum group size specified in (p) above for water activities, and (q) above for all other field trips only:
- (1) During transportation to the field trip or water activity;
 - (2) At snack or mealtimes during the field trip or water activity; and
 - (3) During water activities where certified lifeguards or water safety instructors are present and exclusively supervising the water activities of the children in care of the program.
- (u) In a family or family group child care home and small child care centers, for all water activities on or off the premises of the program, child care staff shall comply with the staffing requirements specified in He-C 4002.33, and the minimum staff to child ratios and staffing levels as follows:
- (1) There shall be one staff member for every 2 children, 35 months and younger, and the staff assigned to this age group shall be responsible only for the children in this age group; and
 - (2) For children ages 3 years and older, the ratio shall be determined by the age of the youngest child in the group as follows:
 - a. If the youngest child is 3 years old, there shall be one staff member for every 4 children;
 - b. If the youngest child is 4 years old, there shall be one staff member for every 6 children; and
 - c. If the youngest child is 5 years of age or older, there shall be one staff member for every 8 children.
- (v) Child care staff who meet the requirements of at least a group leader in a school-age program, associate teacher in all other center-based programs as specified in He-C 4002.34, or child care worker in family based programs or small child care centers as specified in He-C 4002.33 shall be designated as in charge and present during any water activity or field trip.
- (w) All child care staff participating in any water activity or field trip shall be aware of the identity of the person designated in charge.
- (x) At least one staff person who has successfully completed a basic water safety course within 1 year prior to the water activity shall be present during any water activity for every 12 children.

(y) Except during swimming activities conducted by a qualified swim instructor, a person certified in water safety and rescue, or a lifeguard, child care staff shall prohibit each child who cannot swim from going into water that reaches higher than their knees.

He-C 4002.32 Professional Development.

(a) In addition to program managers, all child care staff who are responsible for the supervision of children, or who are necessary for the staff to child ratios, shall have on file documentation of completion of training in accordance with (b) below, which shall:

- (1) Be completed within 90 days of the first date of employment;
- (2) Be completed within 2 weeks for programs operating 3 months of the year or less; or
- (3) If completed prior to employment, provide documentation of previous completion.

(b) The training required in (a) above shall include:

- (1) Child care licensing orientation;
- (2) Prevention and control of infectious diseases, including immunization requirements, exemptions, and grace periods as referenced in He-C 4002.10;
- (3) Prevention of SIDS and use of safe sleep practices, if the program is licensed for infants 12 months and younger;
- (4) Medication administration;
- (5) Prevention of and response to emergencies due to food and other allergic reactions;
- (6) Building and safety of physical premises, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
- (7) Prevention of shaken baby syndrome and abusive head trauma;
- (8) Emergency preparedness and response planning, including training on all required components in the emergency operations plan as specified in He-C 4002.16;
- (9) Handling and storage of hazardous materials and the appropriate disposal of bio-contaminants;
- (10) Appropriate precautions in transporting children for child care staff who will provide transportation or accompany children during transportation;
- (11) Pediatric first aid and pediatric CPR;
- (12) Prevention, recognition, and reporting of child abuse and neglect; and
- (13) Child development, including cognitive, physical, social, and emotional development, and approaches to learning.

(c) In addition to the training required in (b) above, child care staff shall:

(1) Complete training on prevention of SIDS and use of safe sleep practices and prevention of shaken baby syndrome and abusive head trauma prior to working with infants 12 months and younger;

(2) Complete training on appropriate precautions in transporting children prior to transporting or accompanying children during transportation; and

(3) Complete training on medication administration prior to administering medication to children.

(d) Child care staff who have not yet completed the training in (1) through (3) below shall work under the direct supervision and observation of a staff member who has completed the following trainings:

(1) Prevention, recognition, and reporting of child abuse and neglect;

(2) Prevention of shaken baby syndrome and abusive head trauma; and

(3) Pediatric first aid and pediatric CPR.

(e) The program manager and all child care staff shall complete 12 hours of professional development within their first 12 months of hire, and annually thereafter, in accordance with the following:

(1) A minimum of 3 hours shall be in health and safety topics listed in (b)(2)-(13) above; and

(2) The remaining 9 hours shall be in any other areas listed in (o) below.

(f) Beginning on the employee's start date, the employee shall complete the equivalent of one hour of professional development per month for the remainder of the calendar year, which may include the training in health and safety topics listed in (b)(2)-(13) above.

(g) Assistant teachers, associate teachers, group leaders, assistant group leaders, child care workers, and child care assistants shall be exempt from (e) above, if they work fewer than 25 hours per week year-round or more than 25 hours per week during school vacations, or both, for the same licensee.

(h) The child care staff exempt in (g) above shall instead obtain 8 hours of professional development annually, of which a minimum of 3 hours shall be in any of the health and safety areas listed in (b)(2)-(13) above, and the remaining hours shall be in any areas in (o) below.

(i) Child care staff attending high school or college full time shall obtain 3 hours of professional development in health and safety areas listed in (b)(2)-(13) above annually.

(j) Full time college attendance shall mean enrolled in a minimum of 12 credit hours per semester.

(k) All substitutes and any volunteer who works alone with children or is counted in staff-to-child ratios shall complete the health and safety trainings as required by (b) above and 3 hours of annual professional development in health and safety areas listed in (b)(2)-(13).

(l) Professional development shall include trainings, workshops, technical assistance, self-study, or college courses.

(m) Self-study projects shall:

(1) Not exceed 4 of the required 12 hours of professional development; and

- (2) Not be utilized to obtain the professional development in health and safety requirements in (b)(2)-(13) above.
- (n) Self-study projects referenced in (m) above shall:
- (1) Be based on current research in child development or early childhood;
 - (2) Demonstrate developmentally appropriate practice;
 - (3) Support the knowledge and skills needed to care for young children; and
 - (4) Be documented and include an evaluation component.
- (o) In addition to (b) above, professional development shall be in any of the following areas:
- (1) Health and safety;
 - (2) Caring for children with exceptionalities;
 - (3) Nutrition;
 - (4) Any child care related courses sponsored or funded by the department;
 - (5) Indoor and outdoor learning environments;
 - (6) Behavior guidance;
 - (7) Leadership, child care administration, or mentoring;
 - (8) Financial management;
 - (9) Working with families; or
 - (10) Legal issues in child care.
- (p) The department shall accept the following toward meeting in-service professional development requirements:
- (1) Credit courses offered by a regionally accredited college or university with one credit equal to 12 hours;
 - (2) Non-credit courses offered for continuing education units by an accredited college or university;
 - (3) Conference sessions, workshops, or technical assistance presented by an individual who meets one of the following criteria:
 - a. Is credentialed by the department's bureau of child development and head start collaboration, NH early childhood professional development system in accordance with RSA 170-E:50;
 - b. Has at least a bachelor's degree in the subject area which they are providing professional development;
 - c. Meets the minimum qualifications for the position of center director;

- d. Holds a professional license or certification through a professional organization relevant to the subject area which they are providing professional development; or
- e. Is employed or was previously employed in a position such as a trainer, instructor, or consultant by an organization specializing in one of the areas referenced in (o) above in which they are providing professional development;

(4) Provision of training or technical assistance developed and presented live, in real time, or via live remote learning by an employee of the program or an individual hired by the program shall be in accordance with the following:

- a. The training is conducted when the trainees are not responsible for children;
- b. Except for classroom observations, technical assistance is provided when the subject(s) of the technical assistance are not responsible for children; and
- c. Information regarding credentials of the individual, their methods, content and objective, dates and times of trainings or technical assistance, and a list of participants is on file at the program and available for review by the department to assist the department in determining that:
 - 1. The individual meets the requirements specified in (3)a. through e. above; and
 - 2. The training or technical assistance is designed to increase the knowledge or skills of an individual to prepare them to work with children more effectively in a program; and

(5) Online training and correspondence courses, provided documentation of completion includes:

- a. The title of the training;
- b. The completion date;
- c. The hours awarded; and
- d. A description which indicates the training is designed to increase the knowledge or skills of an individual to prepare them to work with children more effectively in a program.

(q) Unless otherwise specified on the training certificate or course description for more or fewer hours, training hours for certification in first aid shall count as 2 hours and training for certification in CPR shall count as 3 hours towards annual professional development requirements.

He-C 4002.33 Family Child Care Programs, Family Group Child Care Programs, and Small Child Care Centers.

(a) Family and family group child care homes and small child care centers shall comply with He-C 4002.01 through He-C 4002.32 and this section.

(b) Family child care shall:

- (1) Only be provided in a dwelling that provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation and occupied for living purposes on a full-time basis by the family child care provider; or
- (2) Be located:
 - a. Physically on the same property as the family child care provider's permanent residence and such residence is a single family home;
 - b. In a duplex structure containing 2 independent side-by-side dwelling units and the family child care provider permanently resides in the other dwelling unit located in the duplex; or
 - c. In a structure with a maximum of 3 stories, with no more than one dwelling unit located on each floor level, and the family child care provider permanently resides in one of the other dwelling units located in the 3 story structure.
- (c) A small group child care center shall operate in a location that is not the residence of the licensee, and shall not provide care for more than 12 children.
- (d) A family child care provider shall not hold more than one family child care license.
- (e) To qualify as a family child care provider or a child care manager of a small child care center, an individual shall be:
 - (1) At least 21 years of age; or
 - (2) At least 18 years of age and submit with their application documentation that they have a high school diploma or equivalent, including but not limited to General Equivalency Diploma (GED), a High School Equivalency Test (HiSet), or a Test Assessing Secondary Completion (TASC), and at least one of the following:
 - a. Successful completion of a 2-year child care curriculum approved by the department of education; or
 - b. College courses, totaling 6 credits, in child development or human growth and development, early childhood, or elementary education, or other field of study focused on children, including at least one 3-credit course in child growth and development, awarded by an accredited college or university.
- (f) A child care worker shall be 18 years of age or older.
- (g) A child care assistant, whether paid or volunteer, shall:
 - (1) Be 16 years of age or older; and
 - (2) Work under the direct observation and supervision of the family child care provider, a child care manager, or a child care worker at all times.
- (h) Family child care providers or small child care centers may employ substitute staff who meet the age requirements of the staff position for whom they are substituting and assume the responsibilities of any child care staff on an emergency or temporary basis for not more than 90 consecutive days and not more than a maximum of 120 days in a 12-month period.

(i) Family child care providers, child care workers, and child care managers shall complete professional development requirements in accordance with He-C 4002.32.

(j) Documentation of professional development requirements shall be maintained at the program and available for review by the department.

(k) A junior helper in any family child care program or a small child care center, whether paid or volunteer, shall:

- (1) Be at least 14 years of age;
- (2) Work with children only under the direct supervision and observation of a staff person who meets at least the minimum qualification of a child care worker;
- (3) Not be calculated in staff to child ratios as specified in (m) through (p) below; and
- (4) Not be required to complete professional development hours as specified in He-C 4002.32.

(l) The license capacity for family or family group child care homes shall include the provider's own, foster, and resident children up to 6 years of age, when they are present.

(m) A family child provider, family group child care provider, child care manager, or a child care worker who is working alone shall not care for more than 6 children plus 3 school-age children during hours when school is not in session, provided that:

- (1) Of the 6 children, no more than 4 children are younger than 36 months of age; and
- (2) Of the 6 children, no more than 2 children are younger than 24 months of age.

(n) A family child care provider plus a child care worker or child care assistant shall not care for more than 6 children plus 3 school-age children when school is not in session. Of the 6 children, no more than 4 shall be younger than 36 months of age.

(o) A family group child care provider plus a child care worker or child care assistant shall not care for more than 12 children plus 5 school-age children when school is not in session. Of the 12 children, no more than 4 children shall be younger than 36 months of age.

He-C 4002.34 Requirements for Child Care Staff in Center-Based Programs.

(a) All center-based programs, other than those operating solely as a school-age program, shall have a center director who meets the following conditions:

- (1) The center director or qualified substitute director shall be on the premises or readily available for at least 60% of each day's daytime operating hours; and
- (2) Programs operating as a night care program, the center director, qualified substitute director, or lead teacher shall be on the premises or readily available for at least 60% of the program's evening and nighttime operating hours.

(b) School-age programs shall have a site director who meets the following conditions:

- (1) For school-age programs operating 5 or fewer hours per day, a site director or qualified substitute director shall be on the premises during all operating hours;
 - (2) For school-age programs operating more than 5 hours per day a site director or qualified substitute director shall be on the premises or readily available for at least 60% of each day's daytime operating hours; or
 - (3) For school-age programs with a site coordinator assigned, a group leader who is at least 20 years of age shall be on the premises during all operating hours.
- (c) Center directors, agency administrators, site coordinators, and site directors shall:
- (1) Be responsible for the daily operation of the program and ensure the program's compliance with He-C 4002; and
 - (2) Designate a staff person who meets at least the minimum qualifications of group leader in school-age programs who is at least 18 years old and associate teacher in all other center-based programs, in accordance with this section, who will be in charge and assume the responsibilities of the center director or site director in their absence.
- (d) With the exception of programs operating only as a school age program, there shall be at least one lead teacher on the premises during all operating hours, and one out of every 6 child care staff who are required to be on the premises in order to meet minimum staff to child ratios shall meet the minimum qualifications of a lead teacher.
- (e) The only exception to (d) above shall be for the first and last hour of a center-based program operating more than 5 hours per day, provided an associate teacher as described in (1) below is on the premises.
- (f) Center-based programs that wish to apply for or have a single license for multiple buildings at the same address in accordance with He-C 4002.02(d), and which choose not to have a center director in each building shall designate a staff person who qualifies as a lead teacher to be in charge in each building without a center director, who reports to the center director.
- (g) School age programs that wish to apply for or have a single license for multiple buildings at the same address in accordance with He-C 4002.02(d), and which choose not to have a site director in each building shall designate a staff person who qualifies as a group leader to be in charge in each building without a site director, who reports to the site director.
- (h) The center director, agency administrator, site coordinator, site director, or their designee shall have available for review at the program for all child care staff, documentation to verify that the person qualifies for their position in accordance with this section.
- (i) Center-based programs may employ substitute staff for up to 120 consecutive days for the same position only if the individuals meet the age requirements of the staff position for whom they are substituting.
- (j) A center director in a center-based program shall:
- (1) Be at least 21 years of age;
 - (2) Have a high school diploma or equivalent, including but not limited to General Equivalency Diploma (GED), a High School Equivalency Test (HiSet), or a Test Assessing Secondary Completion (TASC);

- (3) Have 3 credits in management or supervision, awarded by an accredited college or university, a minimum of 2 years' experience in a supervisory or management position in lieu of the 3 credits in management and supervision, or a written plan for completion of 3 credits in management or supervision from an accredited college or university;
- (4) Have a minimum of 1500 hours experience working with children in a licensed child care program or public or private elementary school; and
- (5) Have one of the following:
 - a. A minimum of an associate's degree awarded by an accredited college or university in related coursework;
 - b. An additional 3000 hours of experience working with children in a licensed child care program or in a public or private elementary school and documentation of a non-expired child development associates (CDA) in center-based programs awarded by the council for professional recognition;
 - c. Current certification in early childhood, elementary, or special education by the department of education;
 - d. Certification in a teacher preparation program accredited by the Montessori Accreditation Council for Teacher Education (MACTE) in infant and toddler, early childhood or elementary I;
 - e. Documentation of 60 credits, awarded by an accredited college or university, of which at least 24 shall be in related coursework, including at least 3 credits in each of the following core knowledge areas:
 - 1. Children with special needs;
 - 2. Child growth and development or human growth and development; and
 - 3. Curriculum for early childhood education; or
 - f. Documentation from or on file with the department that the individual working as the center director qualified for and was employed in the position of center director on or before November 6, 2017, with no break in employment as the center director since receipt of the approval.
- (k) A lead teacher in a center-based program shall have a high school diploma or equivalent, including but not limited to General Equivalency Diploma (GED), a High School Equivalency Test (HiSet), or a Test Assessing Secondary Completion (TASC), be at least 18 years old, and have one of the following:
 - (1) A minimum of 18 credits in related coursework, awarded by an accredited college or university, including at least 3 credits in child or human growth and development, plus a minimum of 1000 hours experience working with children in a licensed child care program or public or private elementary school;
 - (2) A minimum of 12 credits in related coursework, awarded by an accredited college or university, plus 3000 hours experience working with children in licensed child care program or public or private elementary school;

- (3) Documentation of a non-expired child development associates (CDA) in center-based programs awarded by the council for professional recognition;
 - (4) A credential from a teacher preparation program accredited by MACTE;
 - (5) Five years as a licensed family child care provider with no enforcement actions imposed by the department;
 - (6) Successful completion of the New Hampshire Early Childhood Apprenticeship Program;
 - (7) A minimum of 1000 hours of supervised child care experience in a licensed child care program, documentation of successful completion of a 2-year vocational course in career and technical education with an additional 9 credits in related coursework;
 - (8) Documentation from or on file with the department that the individual working as a lead teacher qualified for and was employed in the position of lead teacher on or before November 6, 2017, with no break in employment as a lead teacher; or
 - (9) At least 3 credits in child or human growth and development, plus a minimum of 4,500 hours of documented experience as an associate teacher for the same licensee, and with a letter from the center director stating that the individual has demonstrated the skills necessary to be a lead teacher.
- (l) An associate teacher in a center-based program shall be at least 18 years old, have a high school diploma or equivalent, including but not limited to General Equivalency Diploma (GED), a High School Equivalency Test (HiSet), or a Test Assessing Secondary Completion (TASC), and have one of the following options:
- (1) Written documentation from or on file with the department that the individual working as an associate teacher qualified for and was employed in the position of an associate teacher on or before November 6, 2017, with no break in service as an associate teacher since receipt of the approval;
 - (2) A minimum of 9 credits in related coursework, awarded by an accredited college or university, including at least one 3 credit course in child or human growth and development;
 - (3) Certification as para II educator by the department of education and 1000 hours of experience in a public or private school, including experience with children up to age 8;
 - (4) A minimum of 1000 hours of supervised child care experience in a licensed child care program, and knowledge of child growth and development obtained through one of the following:
 - a. Completion of a high school level 2-year career and technical education course in teacher education;
 - b. A 3-credit course in child or human growth and development, awarded by an accredited college or university; or
 - c. Thirty hours of training in child growth and development, granted by an accredited college or university, an authorized provider of the International Association for Continuing Education and Training or obtained through documented life experience, including experience with the same age children the associate teacher supervises, such as a family child care provider, service as a foster parent, work as a school teacher, work as a

camp counselor and experience as a group leader for children in sports or other activities, such as scouts or little league, or closely related experience; or

(5) At least one 3 credit course in child or human growth and development plus 3 years as a licensed family child care provider or as the child care manager of a small child care center.

(m) Assistant teachers in a center-based program, whether paid or volunteer, shall:

(1) Be at least 15 years of age; and

(2) Work with children only under the direct supervision and observation of a staff person who meets at least the minimum qualifications of an associate teacher.

(n) Notwithstanding (m)(2) above, assistant teachers shall only be alone with a child or group of children if the following conditions are met:

(1) The center director has approved the specific assistant teacher to do this, with approval documented in the employee's file;

(2) The employee has been deemed eligible to work pursuant to RSA 170-E:7, III;

(3) The employee has at least 3 months of experience at the program;

(4) The employee has completed the required trainings pursuant to He-C 4002.32(a); and

(5) The specific activities that the assistant teacher may be alone with children include:

a. Walking children:

1. To or from a bathroom;

2. To or from receiving first aid treatment;

3. To or from a bus stop; and

4. From one classroom or area to another within the licensed premises;

b. Supervising an ill child while waiting for pick-up by a parent or guardian;

c. Supervising a group of children for up to 5 minutes when other child care staff leave the classroom to do a task that cannot be completed by the assistant teacher;

d. Supervising any children that might otherwise be without direct staff supervision pursuant to He-C 4002.19; or

e. Covering staff breaks or curriculum planning time for no more than one hour per classroom or group, provided the assistant teacher is at least 18 years old and has a high school diploma or equivalent.

(o) A junior helper in any center-based program, whether paid or volunteer, shall:

(1) Be at least 12 years of age;

(2) Work with children only under the direct supervision and observation of a staff person who meets at least the minimum qualification of an associate teacher;

(3) Not be calculated in staff to child ratios as specified in He-C 4002.35 through He-C 4002.37 and He-C 4002.39; and

(4) Not be required to complete professional development hours as specified in He-C 4002.32.

(p) A site director or a site coordinator in a school-age program shall be at least 20 years of age, have a high school diploma or equivalent, including but not limited to General Equivalency Diploma (GED), a High School Equivalency Test (HiSet), or a Test Assessing Secondary Completion (TASC), and have at least one of the following:

(1) Written documentation from or on file with the department that they were qualified and employed as a site director in a school-age program on or before the effective date of these rules in 2022;

(2) A minimum of an associate's degree awarded by an accredited college or university in related coursework;

(3) Certification of successful completion of training as a recreation director plus 1000 hours experience working with children in a licensed child care program, recreation program or a public or private elementary school;

(4) A total of 12 credits in child development, education, recreation, or related coursework, awarded by an accredited college or university, plus 1000 hours of experience working with children;

(5) Certification as an educator by the department of education; or

(6) Experience working with children totaling 2000 hours and:

a. Certification as a para II educator by the department of education; or

b. Both of the following:

1. Documentation of enrollment in a course for at least 3 credits in child development, education, recreation, or related coursework, through an accredited college or university and a written plan on file for completion of at least 3 additional credits as specified; and

2. Within 12 months of the date the individual begins working as a site director, documentation of successful completion of at least 6 credits as specified in b.1. shall be on file for review by the department.

(q) A group leader in a school-age program shall be at least 17 years of age, and have one of the following:

(1) Experience working with school-age children, totaling 600 hours;

(2) Documentation of at least 3 credits in child development, education, recreation, or related coursework, awarded by an accredited college or university;

(3) Documentation that they are a certified coach;

(4) Documentation of 5 years of parenting experience; or

- (5) Documentation from or on file with the department that they were qualified and employed as a group leader in a school-age program on or before the adoption of these rules in 2022.
- (r) An assistant group leader in a school-age program, whether paid or volunteer, shall:
- (1) Be at least 15 years of age; and
 - (2) Work with children only when under the direct supervision and observation of a site director or group leader as described in this section.
- (s) A project leader in a school-age program shall:
- (1) Be at least 15 years of age;
 - (2) Be recommended by a school or established youth-related organization or agency;
 - (3) Have a written plan for their project; and
 - (4) Not be required to complete in-service professional development hours as specified in He-C 4002.32.
- (t) Site directors in programs with a project leader shall:
- (1) Inform the project leader of program policies and child care licensing rules;
 - (2) Require child care staff to observe or check on the project leader every 20 minutes;
 - (3) Supervise, or require that the group leader supervise, the project leader; and
 - (4) Have a consent form on file for review by the department that is signed by the parent or guardian of each child participating in an activity with a project leader.
- (u) Project leaders shall not be calculated in staff to child ratios as specified in He-C 4002.38.

He-C 4002.35 Group Child Care Centers.

- (a) Group child care centers shall comply with He-C 4002.01 through He-C 4002.32, He-C 4002.34, and this section, unless otherwise specified.
- (b) Programs shall staff group child care centers with at least one associate or lead teacher per group.
- (c) For children ages 36 months up to 47 months, the maximum group size shall be 24 with one teacher for every 8 children.
- (d) For children ages 48 months up to 59 months, the maximum group size shall be 24 with one teacher for every 12 children.
- (e) For children ages 60 months and over, the maximum group size shall be 30 with one teacher for every 15 children.
- (f) A second staff person shall be in the building when 11 or more children are present.
- (g) Group child care centers shall base the staff to child ratio and group size on the average age of the children in the group when there are mixed ages in the same group.

(h) When the average age of children is younger than 36 months, group child care centers shall comply with staff to child ratios and requirements specified in He-C 4002.36.

He-C 4002.36 Infant and Toddler Programs.

(a) Infant and toddler programs shall comply with He-C 4002.01 through He-C 4002.32, He-C 4002.34, He-C 4002.40 through He-C 4002.44, and this section, unless otherwise specified.

(b) Programs shall staff infant and toddler programs with at least one associate or lead teacher per group.

(c) For children ages 6 weeks up to 12 months, the maximum group size shall be 12 with one teacher for every 4 children.

(d) For children ages 12 months up to 24 months, the maximum group size shall be 15 with one teacher for every 5 children.

(e) For children ages 24 months up to 36 months, the maximum group size shall be 18 with one teacher for every 6 children.

(f) Notwithstanding (c) through (e) above, a second staff person shall be in the building when 5 or more children are present.

(g) In addition to the staffing requirements under (b) through (e) above, programs licensed as infant and toddler programs shall base the staff to child ratio and group size on the average age of the children in each group when there are mixed age groups in the same room.

He-C 4002.37 Preschool Programs.

(a) Preschool programs shall comply with He-C 4002.01 through He-C 4002.32, He-C 4002.34, He-C 4002.40 through He-C 4002.44, and this section.

(b) Preschool programs shall meet the staff to child ratio requirements specified in He-C 4002.35(b) through (g), as applicable.

(c) Preschool programs shall, in accordance with RSA 170-E:2, IV(f), operate 5 or fewer hours per day.

He-C 4002.38 School-Age Programs.

(a) School-age programs shall comply with He-C 4002.01 through He-C 4002.32, He-C 4002.34, He-C 4002.40 through He-C 4002.44, and this section, unless otherwise specified.

(b) All school age programs shall be exempt from He-C 4002.08(b) only regarding recording birth dates on attendance records.

(c) School-age programs that operate in a building which currently house a public or private school shall:

(1) Identify and protect children from hazards such as vehicular traffic with direct supervision if the environment does not provide adequate protection; and

(2) Be exempt from modifying the environment to comply with He-C 4002.

(d) Programs that serve only children attending part day public kindergarten or full-day public school, or which have rooms used exclusively by kindergarten or school age children, shall be exempt from:

(1) He-C 4002.22(a)(2) regarding unprotected outlets only;

(2) He-C 4002.22(b) regarding access to sharp objects and hand sanitizer, provided the hand sanitizer is used by children under staff supervision;

(3) He-C 4002.22(d) regarding non-toxic materials labeled “keep out of reach of children”; and

(4) He-C 4002.22(e) regarding long cords and strings.

(e) In lieu of He-C 4002.25(n), school-age programs operating for more than 5 hours per day shall provide children with an opportunity for at least 30 minutes of quiet activities, rest, or relaxation.

(f) Programs shall staff school age programs with at least one group leader per group.

(g) The maximum group size shall be 45 with one staff for every 15 children.

(h) In addition to the staffing requirements in (f) above, programs licensed as school-age programs shall have a second staff person in the building when 13 or more children are present.

(i) School-age programs that hold combination licenses with multiple program types shall provide separate space for the school-age children during the hours of operation of the school-age program when 9 or more school age children are present.

(j) When 8 or fewer school-age children are present, programs shall have the option to combine school-age children with children 4 years of age and older.

(k) Programs shall have and maintain on file for review by parents or guardians and the department a written schedule of daily activities that ensures that the curriculum includes:

(1) Opportunities for children to help in planning their own activities;

(2) Time for structured and unstructured play, both indoors and outdoors;

(3) Opportunities for active and quiet activities; and

(4) Opportunities for individual and group experiences, both child-initiated and staff directed.

He-C 4002.39 Night Care Program.

(a) Any program which intends to provide child care services during the evening or night time hours, between 7:00 PM and 5:00 AM shall be licensed to operate as a night care program.

(b) Center-based night care programs shall comply with He-C 4002.01 through He-C 4002.32, He-C 4002.34, He-C 4002.40 through He-C 4002.44, and the requirements applicable to the specific program type(s) for which they are licensed as well as the requirements in this section.

(c) Night care programs operating in private homes shall comply with all of the requirements for family and family group child care homes but shall not be required to comply with the requirements specified in He-C 4002.34.

(d) Child care staff shall not allow children attending a night care program to remain in the program for more than a total of 13 hours in any 24-hour period, except in an emergency, or situations when the parents or guardians are working over 13 hours during a 24-hour period, or parents or guardians are deployed during the weekend by the military.

(e) Child care staff shall schedule activities in night care programs that address the basic and individual needs of children, including but not limited to relaxation, meals, play, and sleep.

(f) Child care staff shall provide for privacy appropriate to the developmental needs and ages of children while allowing for age-appropriate supervision of each child for bathing and toileting, and for sleeping if staff are not in the same room or are using an electronic monitor to check on the sleeping children.

(g) Child care staff shall provide each child in a night care program with clean bedding and a bed or crib with a mattress, a cot, or sleeping bag on a rest mat.

(h) Child care staff shall make sleeping arrangements that ensure that children who stay all night are not disturbed by the departure or arrival of those who stay only a portion of the night.

(i) Child care staff shall be awake during operating hours.

He-C 4002.40 Background Checks and Determination of Eligibility.

(a) Background record checks shall be completed in accordance with this section.

(b) The following individuals shall complete and submit for a background record check using the NHCIS portal, “New Background Record Check” (August 2025) prior to employment or residency, as applicable, and every 5 years thereafter:

- (1) Child care staff;
- (2) Substitutes;
- (3) Other employees;
- (4) Volunteers who might be alone with children or are included in staff to child ratios; and
- (5) Household members 18 years of age and older, or when turning 18 years of age.

(c) By submitting for a background check in NHICS as required in (b) above, each individual certifies at submission:

“a) All information provided above is accurate.

b) I have not been charged pending disposition or convicted of a felony consisting of murder, child abuse or neglect, crimes against children (including pornography and trafficking), spousal abuse, rape or sexual assault, kidnapping, arson, physical assault or battery, or a drug related offense (in the last 5 years) or any other violent or sexually related charge or misdemeanor against a child, including child abuse, child endangerment, sexual assault, or a misdemeanor involving child sexual abuse images, or a crime which shows that I might be reasonably expected to pose a threat to a child, such as violent crime or sexually related crime against an adult.”

(d) The background record check shall be completed in accordance with RSA 170-E:7, unless exempted from this requirement as permitted under RSA 170-E:7, II-a.

(e) Pursuant to RSA 170-E:7, IV-b, individuals exempt in accordance with (d) above shall have on file at the program, a statement from the individual stating since the day the individual’s background check was completed, that they have not been convicted of any crimes as specified in RSA 170-E:7, III and IV, and have not had a finding by the department or any administrative agency in this or any other state for abuse, neglect, or exploitation.

(f) For all household members between 13 through 17 years of age, the program shall submit to the unit a completed and notarized “Staff and Household Member Form” (August 2025), certifying the following:

“a) All information provided above is accurate.

b) I have not been charged pending disposition or convicted of a felony consisting of murder, child abuse or neglect, crimes against children (including pornography and trafficking), spousal abuse, rape or sexual assault, kidnapping, arson, physical assault or battery, or a drug related offense (in the last 5 years) or any other violent or sexually related charge or misdemeanor against a child including child abuse, child endangerment, sexual assault, or a misdemeanor involving child sexual abuse images, or a crime which shows that I might be reasonably expected to pose a threat to a child, such as violent crime or sexually related crime against an adult.”

(g) The form required in (f) above shall be submitted:

(1) With the initial licensing application in accordance with He-C 4002.02(e)(5);

(2) When a household member reaches 13 years of age; and

(3) When an individual between 13 through 17 years of age becomes a household member.

(h) The unit shall determine the individual’s eligibility in accordance with RSA 170-E:7, III and IV and notify the program and individual within 45 days of submission of all required information as required in this section and RSA 170-E:7.

(i) Individuals required to complete background record checks as specified in (b) above may be on the premises for orientation or training activities but shall not interact with children until the program receives notice of eligibility from the unit.

(j) When the unit receives the results of the fingerprint-based criminal background check for an individual that does not include any disqualifying information as described in RSA 170-E:7, III and IV, it shall notify the program that the individual may be present in the program, provided the individual is never alone with children and always under the direct supervision and observation of a staff member whom the unit has deemed eligible. This direct supervision and observation shall continue until the unit receives all

results from the background check required in RSA 170-E:7 and notifies the program and individual as described in (h) above.

(k) When the department determines that an individual is ineligible to work in child care, in accordance with RSA 170-E:7, III or IV, it shall provide notice to the individual that includes:

- (1) The department's determination of ineligibility;
- (2) The basis for the determination; and
- (3) The individual's right to challenge their criminal record pursuant to Saf-C 5703.12.

(l) When the department determines that an individual is ineligible to work in child care, in accordance with RSA 170-E:7, III or IV, it shall provide notice to the child care program that:

- (1) The department determined the individual to be ineligible to work in child care; and
- (2) The program shall take immediate action to prohibit the individual from being on the premises of the child care program and from having access to the children enrolled in the program.

(m) The child care program shall inform the department in writing within 2 business days of receipt of the notice in (k) above of the specific action it has taken as required under (l)(2) above.

(n) The program manager shall update the staff roster in the NHCIS portal within 5 business days when the individuals as described in (b) above are no longer working in the program or part of the household, with the date they left the program.

(o) The program manager shall notify the department immediately when they learn of any charges or convictions of an individual after the individual's determination of eligibility.

(p) The department shall require the individual to complete additional background checks when the department needs additional information to determine if the individual's eligibility must be rescinded per RSA 170-E:7, IV-a, with notification provided per (k) and (l) above.

He-C 4002.41 Complaints and Investigations.

(a) In accordance with RSA 170-E:17, II, the department shall respond to any complaint that meets at least one of the following conditions:

- (1) The alleged non-compliance(s) occurred within 6 months of the date of the allegation(s);
- (2) The complaint includes the complainant's first-hand knowledge regarding the allegation(s) or on information reported directly to the complainant by a child who has first-hand knowledge regarding the allegation(s);
- (3) There is sufficient specific information for the department to determine that the allegation(s), if proven to be true, would constitute non-compliance of any of the provisions of RSA 170-E or He-C 4002; or
- (4) The complaint is from any source and alleges non-compliance 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) When the complaint is determined to be substantiated, a statement of findings shall be issued to the program listing the citations found resulting from the investigation and any additional citations found.

(c) When the complaint is determined to be unfounded, the department shall send a notice to the program advising that the complaint was unfounded.

He-C 4002.42 Confidentiality.

(a) Any information collected by the department pursuant to RSA 170-E:7 regarding criminal conviction records or founded cases of child abuse or neglect, which results in a department determination that the individual being investigated is ineligible to work with children, shall be kept confidential by the department, with the following exceptions:

- (1) The program in which the individual is employed shall be notified that the individual has been determined to be ineligible to work with children, in accordance with the provisions of RSA 170-E:7, III, or RSA 170-E:7, IV, so that the program can take corrective action; and
- (2) If a statement of findings is issued regarding the employment or presence in the program of an individual covered under (1) above, it shall not include the name of that individual on the statement of findings and shall only specify that the individual was determined by the department to be ineligible to work with children.

(b) The department shall keep confidential information collected during the application process and any records in its possession regarding the admission, progress, health, and discharge of children, with the following exceptions:

- (1) Upon receipt of:
 - a. A written request from the applicant, licensee, or their designated legal representative, the department shall release to the requester, information obtained during the application process; and
 - b. Upon receipt of a written authorization to release information, signed by the applicant or licensee, or in the case of personal information, signed by the individual who is the subject of the information, the department, shall release any information collected during the application process; or
- (2) During an administrative proceeding against the applicant or licensee.

(c) The department shall release information to law enforcement agencies or in an administrative proceeding against the applicant or licensee. Otherwise, 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.

(d) Applicants, licensees, and all child care staff shall keep confidential all records required by the department pertaining to the admission, progress, health, and discharge of children under their care and all information learned about children and their families.

(e) Child care staff shall:

(1) 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) Release information regarding a specific child only as directed by a parent or guardian of that child, or upon receipt of written authorization to release such information, signed by that child's parent or guardian.

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

He-C 4002.43 Enforcement Action and Right to Appeal.

(a) Pursuant to RSA 170-E:11, IV through VI, the department shall consider the following enforcement actions in response to non-compliance with licensing rules and laws:

- (1) Assessment of administrative fines;
- (2) Placement of conditions on a permit or license;
- (3) Suspension of a permit or license;
- (4) Denial of an application for a new or renewed license; or
- (5) Revocation of a permit or license.

(b) The department shall place conditions on a license or permit when it determines that the applicant or licensee is in violation of any of the provisions of RSA 170-E or any rule, and it determines that placement of those conditions shall:

- (1) Protect the health, safety, or well-being of children;
- (2) Assist the applicant or licensee to achieve and maintain compliance with licensing rules or statute; or
- (3) Assist the applicant or licensee to avoid suspension, revocation, or denial of their license or permit.

(c) When the department intends to place conditions on a license or permit, it shall send to the applicant or licensee a notice setting forth:

- (1) The reason(s) for the intended action;
- (2) The specific condition(s) the department intends to place on the license or permit;

- (3) The effective date(s) of the proposed conditions;
 - (4) Notice that, once the department places conditions on the license or permit, failure to comply with those conditions shall constitute failure to comply with the provisions of license; and
 - (5) Information about the right to request an administrative hearing by submitting a written request for an administrative hearing to the commissioner no later than 10 calendar days from the date of receipt of the notice.
- (d) The conditions placed in accordance with (b) above:
- (1) Shall be determined by the department, based on the single or combination of options specified that will best address the specific issue or problem; and
 - (2) Shall include, but not be limited to:
 - a. Prohibiting a licensee from enrolling any additional children in a program;
 - b. Reducing the license capacity or the number of children for whom a licensee is authorized to care in a specific component of a program;
 - c. Requiring an individual to obtain additional education other than that required for their position, or to complete additional in-service professional development activities, in excess of the annual requirement as specified under He-C 4002.32 in order to prepare them to more effectively work with children or assist them in achieving and maintaining compliance with He-C 4002;
 - d. Requiring an applicant or licensee to hire additional staff on a temporary or permanent basis;
 - e. Prohibiting a licensee from applying for an increase in the license capacity, or any addition of new program types to an existing license or permit, until they achieve and maintain compliance with He-C 4002;
 - f. Prohibiting an applicant or licensee from applying for additional child care program licenses; or
 - g. Requiring the licensee to replace the center director, site director, or site coordinator.
- (e) The department's decision to place conditions on a license or permit shall become final when:
- (1) The applicant or licensee does not request an administrative hearing as specified in (c)(5) above; or
 - (2) The department's decision to place conditions on the license or permit is upheld after an administrative hearing.
- (f) The placement of conditions on a license or permit shall not prohibit the department from enforcing any conditions or any other enforcement action available to it under He-C 4002 or RSA 170-E.
- (g) When the department places conditions on a license or permit, the department shall issue a revised license or permit reflecting the conditions imposed.

(h) Upon receipt of notice of the department's intent to place conditions on a license, the applicant or licensee receiving the notice shall immediately provide the department with evidence that the program notified all the parents or guardians of enrolled children of the conditions imposed on the license by the department.

(i) When a program has met the conditions placed on the license and has maintained compliance with all licensing rules and statutes related to the conditions for a period of one year or the period reflected on the license or permit, whichever is greater, the department shall:

(1) Provide written notice to the licensee of the department's intention to rescind the conditions; and

(2) Issue a revised license or permit.

(j) The department shall revoke a permit or license or deny an application for a new license, license renewal, or license revision in accordance with RSA 170-E:12 if:

(1) The applicant or licensee fails to provide or does not meet the requirements of He-C 4002.02;

(2) The applicant or licensee refuses to submit or adhere to an agreement or corrective action plan which ensures that an individual determined ineligible for employment or as a household member is removed from employment or from the household and will not have access to the children in care during the operating hours of the program;

(3) The applicant or licensee has endangered, or continues to endanger one or more children, or otherwise caused one or more children to be physically or mentally injured;

(4) The applicant or licensee has a:

a. Finding of abuse, neglect, or exploitation of any person;

b. Conviction of child endangerment, fraud, or a felony against a person in this or any other state by a court of law;

c. Conviction of any crime as referenced in RSA 170-E:7, III or IV; or

d. Complaint investigation for abuse, neglect, or exploitation substantiated by the department or in any other state;

(5) The applicant, licensee, or any representative or employee thereof knowingly provides false or misleading information to the department, including but not limited to information on the application or in the application attachments;

(6) The applicant, licensee, or any representative or employee thereof fails to cooperate with any inspection by the department or fails to submit any records or reports required by the department;

(7) The applicant or licensee has demonstrated a history or pattern of multiple or repeat citations of RSA 170-E or He-C 4002, that pose or have posed a threat to the safety of a child or children;

(8) The applicant or licensee fails to submit an acceptable corrective action plan or fully implement and continue to comply with a corrective action plan approved by the department in accordance with He-C 4002.06(f) through (i);

(9) The applicant or licensee fails to pay a fine assessed by the department as specified in He-C 4002.44; or

(10) The applicant or licensee fails to implement and comply with conditions placed on a license by the department as specified in He-C 4002.44(g).

(k) If the department revokes a license or permit, or if a license or permit has expired due to the program's failure to submit a timely application for renewal in accordance with He-C 4002, the program shall discontinue operations immediately.

(l) The department shall notify applicants or licensees of a decision of the department to deny, revoke, or suspend a license of their right to an administrative hearing in accordance with RSA 170-E:13.

(m) If an applicant or licensee fails to request an administrative hearing in writing within 10 days of the receipt of the notice required by RSA 170-E:13, I, the action of the department shall become final.

(n) Administrative hearings under this section shall be conducted in accordance with RSA 170-E:13 and 14, RSA 541-A, and He-C 200.

(o) Further appeals of department decisions under this section shall be governed by RSA 170-E:14.

(p) Any licensee who has been notified of the department's intent to revoke or suspend a license or deny an application for license renewal may continue to operate during the appeal process except as specified in (q) below.

(q) When the department includes in its notice of revocation or suspension an order of immediate closure, pursuant to RSA 170-E:13, III, or RSA 541-A:30, III, the program shall immediately terminate its operation and not operate while an administrative hearing is pending except under court order or as provided by RSA 541-A:30, III.

(r) The department shall initiate suspension of a license or permit rather than revocation when it determines that:

(1) The program does not have a history of repeat citations of licensing rules or statute and the action is based on non-compliance or a situation that is:

a. Related to a correctable environmental health or safety issue, including but not limited to a problem with a program's water supply, septic system, heating system, or structure; and

b. Documented by the program as being temporary in nature; or

(2) The action is for one of the following for an applicant or licensee, and is under appeal:

a. A criminal conviction; or

b. A finding by the division for children, youth, and families, of child abuse, neglect, or endangerment.

(s) Any suspension of a license or permit for which an administrative hearing has not been requested or any suspension of a license that has been upheld by an administrative hearing shall remain in effect until the department notifies the program whose license or permit was suspended that the suspension has been removed because:

(1) The non-compliance which resulted in the suspension is corrected; or

(2) The suspension was the result of loss of fire or health officer approval, and the local fire or health officer has reinstated their approval.

(t) Upon receipt of notice of the department's intent to revoke, suspend, deny, or refuse to issue or renew a license or permit, the applicant or licensee shall immediately provide the department with a list of the names, addresses, including email addresses, and phone numbers of the parents or guardians of enrolled children and staff employed by the program.

(u) Based upon information provided under (t) above, the department shall notify the parents or guardians of children currently enrolled in the program, and staff employed by the program that the department has initiated action to revoke or suspend the license or deny an application for a license renewal.

(v) When a program is allowed to continue operating pending appeal as provided in (p) above, the program shall provide the suspension or revocation notice to any new families prior to enrollment of their child or children or prospective staff prior to offer of employment.

(w) The department shall send a notice equivalent to the notice specified in (u) above to the following entities:

(1) The health officer and fire inspector serving the town in which the program is located;

(2) The organization or entity who provides resource and referral services, pursuant to RSA 171-E:5-a; and

(3) The state office of the United States Department of Agriculture, food and nutrition service, child and adult care food program.

(x) A program manager shall be ineligible to reapply for a license, employment as a center director, site director, site coordinator, or be a family child care provider, or hold any corporate office or controlling interest in any licensed program after revocation of a license or denial of an application.

(y) The period of ineligibility in (x) above shall be at least 5 years from:

(1) The date the decision to revoke or deny becomes final; or

(2) The date an order is issued upholding the action of the department if an administrative hearing was requested.

(z) When an individual enters into an administrative agreement with the department to surrender a license or withdraw an application that exceeds the 5 years in (y) above, this administrative agreement shall supersede the rule.

(aa) The department shall accept an application from an individual or consider an individual to be eligible to be employed as an agency administrator after the 5 year period specified in (y) above only when it determines that the individual has, through education, training, or experience, acquired the knowledge and skills, and has the resources necessary to operate or direct a child care program in compliance with licensing rules and statute.

(ab) Prior to the passage of 5 years, the department shall consider a request by the individual to be employed as an agency administrator for another applicant or licensee, or to become an applicant for a license, only under the following circumstances:

(1) The revocation or denial was based on the agency administrator's inability to correct the non-compliance due to the applicant or licensee's refusal or inability to correct; and

(2) The agency administrator employed by the applicant or licensee whose license was revoked or application was denied shows that circumstances have substantially changed such that the department now has a good cause to believe that they have the requisite degree of knowledge, skills, and resources necessary to maintain compliance with the provisions of RSA 170-E and He-C 4002.

(ac) Notwithstanding (aa) above, the department shall consider an application submitted after the decision to revoke or deny becomes final, but before the expiration of the 5 years referenced in (y) above, provided revocation or denial was the result of non-compliance with RSA 170-E:4, II, RSA 170-E:12, I, RSA 170-E:12, V, RSA 170-E:12, VI, RSA 170-E:12, VII, RSA 170-E:12, VIII, and RSA 170-E:12, XI, and only under the following circumstances:

(1) The denial or revocation was based on the applicant or licensee's inability or failure to correct non-compliance caused by a temporary condition which has been corrected; or

(2) The licensee or applicant who was denied an initial application shows that circumstances have substantially changed such that the department now has a good cause to believe that the applicant has the requisite degree of knowledge, skills, and resources necessary to maintain compliance with the provisions of RSA 170-E and He-C 4002.

(ad) No ongoing enforcement action shall preclude the imposition of any remedy available to the department under RSA 170-E, RSA 541-A, He-C 4002, or other law.

He-C 4002.44 Administrative Fines.

(a) The department shall assess administrative fines in accordance with RSA 170-E:11, VI and VII, and RSA 170-E:21-a.

(b) The department shall send a notice of intent to assess a fine by certified mail and email, or by hand delivery to any person, applicant, or licensee.

(c) The written notice required under (b) above shall include:

(1) The amount of the fine, the citation(s), and dates, if applicable, for which the fine is being assessed;

(2) Information regarding the right to request an administrative hearing, including the name, address, phone number, and email of the hearings unit, and deadline by which to request a hearing;

(3) Information about the option of reducing any assessed fine by 25% by submitting to the department, no later than 10 days from receipt of the notice, payment of the reduced fine, and a written statement waiving the right to request an administrative hearing regarding the fine, signed by the applicant or licensee; and

(4) The name of a contact person within the office of legal and regulatory services, bureau of facility licensing and certification.

(d) If the applicant or licensee does not request an administrative hearing as specified in (c)(2) above, the department's decision to assess a fine shall become final after the 10-day period specified in (c)(3) above and the fine shall be paid to the department no later than 10 days from that date.

(e) When an administrative hearing is conducted and the department's decision to assess a fine is upheld, the fine shall be due and payable within 10 days of the date of the hearing officer's decision.

(f) The assessment of fines shall not prohibit the department from enforcing any conditions or any other enforcement action available to it under He-C 4002 or RSA 170-E.

(g) The department shall assess fines in accordance with the following:

(1) For failure to comply with the provisions of a license or permit, in violation of He-C 4002.05(a)(1), the fine shall be \$200.00, plus \$100.00 per day for each day for which the department has evidence that the program continues to fail to comply with the provisions of a license or permit, in violation of He-C 4002.05(a), after receipt of written notice of non-compliance from the department;

(2) For a repeat citation for failure to comply with the provisions of a license or permit, in violation of He-C 4002.05(a)(1), the fine shall be \$500.00, plus \$100.00 for each day for which the department has evidence that the program continues to fail to comply with the provisions of a license or permit, in violation of He-C 4002.05(a), after receipt of written notice of non-compliance from the department;

(3) For operating a child care program without a license or permit, in violation of RSA 170-E:4, I, the fine shall be \$500.00, plus \$100.00 per day for each day for which the department has evidence that the program continues to operate, in violation of RSA 170-E:4, I;

(4) For continuing to operate a child care program after voluntarily closing, or for continuing to operate under an expired license after failing to submit a timely renewal application, in violation of RSA 170-E:4, I, the fine shall be \$1,000.00, plus \$100.00 per day for each day for which the department has evidence that the program continues to operate, in violation of RSA 170-E:4, I;

(5) For continuing to operate a child care program after suspension, revocation, or denial of a license or permit, in violation of RSA 170-E, I, the fine shall be \$2,000.00, plus \$500.00 per day for each day for which the department has evidence that the former licensee continues to operate a child care program in violation of RSA 170-E:4, I;

(6) For failure to submit any requested reports or failing to make available any records required by the department for investigation, monitoring, or licensing purposes in violation of He-C 4002.05(k), (l), (m)(4), or (n), the fine shall be \$500.00, per offense, plus \$100.00 per day, per offense, for each day for which the department does not receive the requested documents;

(7) For making false or misleading statements, either verbal or written, to the department, or for directing, requiring, or knowingly allowing any child care staff to make false or misleading statements to the department, or falsifying any documents, other written information, or reports issued by or required by the department, in violation of He-C 4002.05(o), the fine shall be \$1000.00 per offense;

(8) For failure by the applicant, licensee, or by any child care staff at the direction of or on behalf of the applicant, licensee, center director, or site director, to cooperate during any visit

authorized under RSA 170-E or He-C 4002, in violation of He-C 4002.05(o) the fine shall be \$1000.00;

(9) For failure to submit a corrective action plan, in violation of He-C 4002.06(g), the fine shall be \$200.00;

(10) For failure to implement or maintain the corrective action set forth in any corrective action plan that has been accepted or issued by the department, in violation of He-C 4002.06(k), the fine shall be as follows:

a. If the same non-compliance is cited within 2 years of the original citation, the fine shall be \$250.00; and

b. If the same non-compliance is cited a third time within 2 years of being fined in a. above for the original citation, the fine shall be \$500.00;

(11) For failure to supervise each child in care, in violation of He-C 4002.19(a), the fine shall be \$750.00;

(12) For abusing or neglecting a child or children, or failing to protect a child or children from abuse or neglect by any individual when the licensee, or program manager, either knew or should have known about the abuse or neglect, in violation of He-C 4002.17(e)(1) and (f), the fine shall be \$1000.00;

(13) For using corporal punishment, or failing to protect children from corporal punishment in the child care program by any child care staff, household member, or other individual, when the licensee, or program manager either knew or should have known about the corporal punishment, in violation of He-C 4002.17(e)(4) and (f), the fine shall be \$1000.00;

(14) For using prohibited discipline practices, or failing to protect children from prohibited discipline practices when the licensee, or program manager either knew or should have known about the prohibited discipline practices or mistreatment, in violation of He-C 4002.17(e)(2) and (f), the fine shall be \$500.00;

(15) For employing an agency administrator, center director, child care manager, site coordinator, or site director, who does not meet the qualifications for the position, in violation of He-C 4002.34(j) and (p) respectively, under circumstances where the department has not granted a waiver in accordance with He-C 4002.04, the fine shall be \$500.00;

(16) For failure to complete the criminal background check process, in violation of RSA 170-E:7 and He-C 4002.40, the fine shall be \$500.00, plus \$100.00 per day when the non-compliance is not corrected and the employee, household member, or other individual continues to work in the program without having completed the criminal background check process;

(17) For non-compliance of any statute or any rule which results in endangering one or more children, in violation of RSA 170-E:4, II, the fine shall be \$1000.00 for each citation, plus \$200.00 per day for each day for which the department has evidence that the non-compliance continues after receipt of written notice of non-compliance from the department;

(18) For a repeat citation of any rule not specified in (g)(3) through (17) above, the fine shall be \$200.00;

(19) When an inspection results in a determination that non-compliance of RSA 170-E or He-C 4002 is a repeat citation of any of the rules specified in (g)(3) through (18) above, the fine shall be twice the amount as the original fine assessed, not including any applicable daily rates;

(20) For the purposes of (g)(18) and (19) above, each incident of non-compliance shall constitute a separate citation subject to a separate fine;

(21) For non-compliance of any statute, or rule which results in physical injury to one or more children, or places one or more children in jeopardy of physical harm, the department shall assess a fine of \$2,000.00 for each non-compliance, plus \$500.00 per day that the non-compliance exists; and

(22) Each day that the individual or licensee continues to be in violation of the provisions of RSA 170-E or He-C 4002 shall constitute a separate violation and shall be subject to fines in accordance with He-C 4002.44 provided that if the applicant or licensee is making good faith efforts to comply with the provisions of RSA 170-E or He-C 4002, as verified by documentation or other means, the department shall not issue a daily fine.

Appendix A

RULES	STATUTE
He-C 4002.01	RSA 170-E:2; RSA 170-E:11
He-C 4002.02	RSA 170-E:6; RSA 170-E:8; RSA 170-E:9; RSA 170-E:11, I(1); RSA 541-A:30, I
He-C 4002.03	RSA 541-A:29
He-C 4002.04	RSA 170-E:11, I(m)
He-C 4002.05	RSA 170-E:7, I; RSA 170-E:6-b; RSA 170-E:11, I(a) and (b); RSA 170-E:11, I(h); 45 CFR 98.41(e)
He-C 4002.06	RSA 170-E:8, III; RSA 170-E:10; RSA 170-E:11, I(h); RSA 170-E:11, IV
He-C 4002.07	RSA 170-E: 10-a; RSA 170-E:11, IV; RSA 541-A:30-a
He-C 4002.08	RSA 170-E:11, I(c) and (d)
He-C 4002.09	RSA 170-E:11, I(b)
He-C 4002.10	RSA 170-E:11, I(a), (f), and (g); 45 CFR.98.41(a)(1)(i)(C); RSA 140-C:20-a; RSA 141-C:20-b
He-C 4002.11	RSA 170-E:11, I(a), (d), and (g); 45 CFR.98.41(a)(1)(i)
He-C 4002.12	RSA 170-E:11, I(a), (d), (g), and (h); 45 CFR 98.33(a)(5)(ii)
He-C 4002.13	RSA 170-E:11, I(d), (e), and (f)
He-C 4002.14	RSA 170-E:11, I(a), (d), and (g); 45 CFR 98.41(a)(1)(iv) or (vii)
He-C 4002.15	RSA 170-E:11, I(a), (d), (g), and (i); 45 CFR 98.41(a)(1)(i)(C); 45 CFR 98.16(hh)
He-C 4002.16	RSA 170-E:11, I(a), (d), (g), and (h); 45 CFR 98.41(a)(1)(vii)
He-C 4002.17	RSA 170-E:11, I(a)-(e), and (i); 45 CFR 98.16(hh); 45 CFR 98.41(a)(1)(vi)
He-C 4002.18	RSA 170-E:11, I(a), (d), and (e)
He-C 4002.19	RSA 170-E:11, I(a), (d), (g), and (h); 45 CFR 98.41(a)(1)(iv); 45 CFR 98.41(a)(1)(x)
He-C 4002.20	RSA 170-E:11, I(a), (b), (d), (e), (g), and (h); 45 CFR 98.41(a)(1)(iii); RSA 329:1-h
He-C 4002.21	RSA 170-E:11, I(d); 45 CFR 98.41(a)(1)(v); RSA 170-E:6, 8, and 9
He-C 4002.22	RSA 170-E:11, I(d) and (e); 40 CFR 745.90(a) and (b); 45 CFR 98.41(a)(1)(v)
He-C 4002.23	RSA 170-E:11, I(d) and (e); 45 CFR 98.41(a)(1)(v)
He-C 4002.24	RSA 170-E:11, I(d) and (e); 16 CFR 1500
He-C 4002.25	RSA 170-E:11, I(d) and (e); 16 CFR 1219 and 1220; 45 CFR 98.41(a)(1)(ii)
He-C 4002.26	RSA 170-E:11, I(d), (e), and (h); RSA 170-E:6; 45 CFR 98.41(a)(1)(v)
He-C 4002.27	RSA 170-E:11, I(d), (e) and (h); RSA 170-E:6
He-C 4002.28	RSA 170-E:11, I(d) and (e); RSA 170-E:6
He-C 4002.29	RSA-170-E:11, I(d) and (e)
He-C 4002.30	RSA-170-E:11, I(d) and (e)
He-C 4002.31	RSA-170-E:11, I(a) through (e); RSA 265:107-a; 45 CFR 98.41(a)(1)(ix); 45 CFR 98.41(d)
He-C 4002.32	RSA-170-E:11, I(b) through (e); 45 CFR 98.41(a)(1); 45 CFR 98.44
He-C 4002.33	RSA-170-E:11, I(b); 45 CFR 98.41(d)
He-C 4002.34	RSA 170-E:11, I(b); 45 CFR 98.41(d)
He-C 4002.35	RSA 170-E:11, I(a) and (c); 45 CFR 98.41(d)
He-C 4002.36	RSA 170-E:11, I(a) and (c); 45 CFR 98.41(d)
He-C 4002.37	RSA 170-E:11, I(a) and (c); 45 CFR 98.41(d); RSA 170-E:2, IV(f)
He-C 4002.38	RSA 170-E:11, I(a), (c), and (e); 45 CFR 98.41(d)
He-C 4002.39	RSA 170-E:11, I(a), (c), and (e); 45 CFR 98.41(d)
He-C 4002.40	RSA 170-E:11, I(b) and (h); RSA 170-E:7; 45 CFR 98.43

He-C 4002.41	RSA 170-E: 11, IV; RSA 170-E:17, II and III; RSA 170-E:23
He-C 4002.42	RSA 170-E:7; RSA 170-E:11, I(a) and (h); RSA 170-E:17, III; RSA 170-E:23; 45 CFR 98.43(e)(2)
He-C 4002.43	RSA 170-E:11, I(a) and (h); RSA 170-E:11, IV and V; RSA 170-E:12; RSA 170-E:13
He-C 4002.44	RSA 170-E:11, II, VI and VII; RSA 170-E:21-a

Appendix B: Incorporation by Reference Information

Rule	Title	Publisher; How to Obtain; and Cost
He-C 4002.23(h)(2)c.	ASTM International's, "ASTM F1292 Standard Specification for Impact Attenuation of Surfacing Materials Within the Use Zone of Playground Equipment" (2022 Edition)	Publisher: ASTM International Cost: \$76.00 The incorporated document is available at: https://www.document-center.com/standards/show/ASTM-F1292