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**OFFICE OF LEGISLATIVE SERVICES
ADMINISTRATIVE RULES**

STATE HOUSE ANNEX
25 CAPITOL STREET, ROOM 234
CONCORD, NH 03301

Cover Sheet for Emergency Rule

Adoption Number:

Rule Number: He-M 1001(var)

1. **Agency:** Department of Health and Human Services
Bureau of Developmental Services
105 Pleasant Street, Main Building
Concord, NH 03301
2. **RSA Authority:** RSA 126-A:19; RSA 126-A:20, I & III; RSA 171-A:3; and RSA 171-A:18, IV
3. **Federal Authority:** 42 CFR 441.301
4. **Action(s):** Adoption, Readopt w/Amendment
5. **Filing Date:**
6. **Short Title:** Certification Standards for Developmental Services Community Residences
7. **Contact person for copies and questions including requests to accommodate persons with disabilities:**

Name: Allyson Raadmae	Title: Administrator- Administrative Rules Unit
Address: Dept. of Health and Human Services Administrative Rules Unit 129 Pleasant Street, 2nd Floor Concord, NH 03301	Phone Number: (603) 271-9604
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****PLEASE ATTACH THE FOLLOWING, numbered to correspond to the number on this sheet (a separate sheet is not required for every item):**

- 8. An explanation of the nature of (a) the imminent peril to public health or safety, demonstrating that the emergency rule is necessary to prevent the imminent peril, or (b) the substantial fiscal harm to the state or its citizens which could otherwise occur if the rule were not adopted as an emergency rule.**

He-M 1001 defines the standards and procedures for the certification of community residences funded by the State of New Hampshire for persons with a developmental disability or acquired brain disorder and establishes minimum standards governing the operation and continued certification of such residences.

The Department of Health and Human Services (Department) is proposing to adopt, readopt with amendment and renumber various sections of He-M 1001, entitled "Certification Standards for Developmental Services Community Residences", to include He-M 1001.02 on definitions, He-M 1001.11 on initial certification process, He-M 1001.12 on renewal certification process, He-M 1001.13 on emergency certification process, He-M 1001.14 on inspections and plans of correction, new section He-M 1001.15 on complaints, He-M 1001.16, formerly He-M 1001.15, on denial of certification, new section He-M 1001.17 on administrative remedies, new section He-M 1001.18 on enforcement actions and hearings, He-M 1001.19, formerly He-M 1001.16, on revocation of certification, He-M 1001.20, formerly He-M 1001.20, on immediate suspension of certification, He-M 1001.21, formerly He-M 1001.18, on appeals, He-M 1001.22, formerly He-M 1001.19, on waivers, and He-M 1002.23, formerly He-M 1001.20, on required forms.

The existing He-M 1001 does not allow the Department to complete an inspection outside of the initial inspection and recertification inspection, investigation, or take any enforcement action for the non-compliance of federal, state, or local law or of applicable Department rules. After reviewing the developmental disabilities system, the Department determined that this rule, He-M 1001, needed to be updated in a timely manner, to improve oversight and limit redundancy so that individuals with developmental disabilities or an acquired brain disorder are receiving care in a safe and healthy environment.

By entering into emergency rulemaking the Department will be able to complete inspections of certified community residences and investigations of reports that allege a violation of RSA 126-U, He-M 310, He-M 504, He-M 506, He-M 507, He-M 1001, and He-M 1201, complete inspections and investigations of reports that allege non-compliance with any other directives or recommendations made by any Department, Bureau, or Division as a result of an investigation, and enforce noncompliance. The Department will prevent the imminent peril to the public health or safety by having the ability to complete these inspections and investigations, and having the authority to enforce noncompliance, ensuring that the individuals who reside in these community residences have safe and healthy environments.

While there is no public hearing for emergency rulemaking, the Department will enter into regular rulemaking to permanently amend He-M 1001 and stakeholders will have the ability to fully review and provide the Department with stakeholder feedback.

9. A summary of the effect if the rule were not adopted.

If this proposal is not adopted, the Department cannot investigate, inspect, or take any enforcement on any allegations that suggest non-compliance with the appropriate statutes or rules, which provide the basic standards designed to promote safe and appropriate care of individuals receiving services in a community residence setting. This could result in individuals with developmental disabilities or an acquired brain disorder receiving care in an unsafe or unhealthy environment.

10. A description of those affected.

Those affected by this proposal are citizens of New Hampshire who receive care in certified community residences who have a developmental disability or an acquired brain disorder and the applicants or certificate holders of a community residence that provide services.

****PLEASE SIGN THE FOLLOWING:**

I, the adopting authority,* hereby certify that the attached is an accurate statement explaining why an emergency rule is necessary.

Date: 3/26/2026

Signature: Lori Weaver

Name: Lori A. Weaver

Title: Commissioner

Date: 3/26/2026

Signature: Christine Santaniello

Name: Christine Santaniello

Title: Associate Commissioner

**("Adopting authority" is the official empowered by statute to adopt the rule, or a member of the group of individuals empowered by statute to adopt the rule.)*

CHAPTER He-M 1000 HOUSING

PART He-M 1001 CERTIFICATION STANDARDS FOR DEVELOPMENTAL SERVICES
COMMUNITY RESIDENCES

Statutory Authority: New Hampshire RSA 126-A:19-20; RSA 171-A:3; 18, IV

Readopt with amendment He-M 1001.02, effective 5-23-25 (Document #14255), to read as follows:

He-M 1001.02 Definitions. The words and phrases used in this chapter shall have the following meanings:

(a) “Acquired brain disorder” means a disruption in brain functioning that:

- (1) Is not congenital or caused by birth trauma;
- (2) Presents a severe and life-long disabling condition which significantly impairs a person's ability to function in society;
- (3) Occurs prior to age 60;
- (4) Is attributable to one or more of the following reasons:
 - a. External trauma to the brain as a result of:
 1. A motor vehicle incident;
 2. A fall;
 3. An assault; or
 4. Another related traumatic incident or occurrence;
 - b. Anoxic or hypoxic injury to the brain such as from:
 1. Cardiopulmonary arrest;
 2. Carbon monoxide poisoning;
 3. Airway obstruction;
 4. Hemorrhage; or
 5. Near drowning;
 - c. Infectious diseases such as encephalitis and meningitis;
 - d. Brain tumor;
 - e. Intracranial surgery;
 - f. Cerebrovascular disruption such as a stroke;
 - g. Toxic exposure; or
 - h. Other neurological disorders, such as Huntington's disease or multiple sclerosis, which predominantly affect the central nervous system resulting in diminished cognitive functioning and ability; and

(5) Is manifested by one or more of the following:

a. Significant decline in cognitive functioning and ability; or

b. Deterioration in:

1. Personality;
2. Impulse control;
3. Judgment;
4. Modulation of mood; or
5. Awareness of deficits;

(b) “Agency residence” means a residence operated by staff of a provider agency;

(c) “Area agency” means “area agency” as defined in RSA 171-A:2, I-b;

(d) “Behavioral change program” means a written plan, protocol, or procedure that outlines strategies including, but not limited to:

- (1) Physical environment modifications;
- (2) Restrictive strategies;
- (3) Use of monitoring devices; or
- (4) Other strategies for altering behavior;

(e) “Bureau” means the bureau of developmental services of the department of health and human services;

(f) “Bureau administrator” means the chief administrator of the bureau of developmental services;

(g) “Certificate holder” means the provider agency in whose name a community residence’s certification is issued;

(h) “Certification” means the written approval by the department’s office of legal and regulatory services, for the operation of a community residence in accordance with He-M 1001;

(i) “Commissioner” means the commissioner of the New Hampshire department of health and human services or their designee;

(j) “Community residence” means either an agency residence or family residence, exclusive of any independent living arrangement, that:

- (1) Provides residential services for at least one individual with a developmental disability in accordance with He-M 503, or an acquired brain disorder in accordance with He-M 522;
- (2) Provides services and supervision for an individual on a daily and ongoing basis, both in the home and in the community, unless the individual’s service agreement states that the individual may be without supervision for specified periods of time;
- (3) Serves individuals whose services are funded by the department; and
- (4) Is certified pursuant to He-M 1001;

(k) “Days” means calendar days unless otherwise specified;

(l) “Directed plan of correction (directed POC)” means a plan developed and written by the department that specifies the necessary actions the certificate holder must take to the correct identified areas of non-compliance;

(m) “Department” means the New Hampshire department of health and human services;

(n) “Developmental disability” means "developmental disability" as defined in RSA 171-A:2, V, namely, "a disability:

(a) Which is attributable to an intellectual disability, cerebral palsy, epilepsy, autism, or a specific learning disability, or any other condition of an individual found to be closely related to an intellectual disability as it refers to general intellectual functioning or impairment in adaptive behavior or requires treatment similar to that required for persons with an intellectual disability; and

(b) Which originates before such individual attains age 22, has continued or can be expected to continue indefinitely, and constitutes a severe disability to such individual's ability to function normally in society.";

(o) “Emergency” means an unexpected occurrence or set of circumstances in an individual's life which consists of, culminates in, or has resulted from serious physical or psychological injury, or both, and requires immediate remedial attention;

(p) “Family residence” means a community residence operated:

(1) Exclusively by a person or family residing therein; and

(2) Under contract with a provider agency;

(q) “Health assessment” means an evaluation of an individual’s health status done by a physician or other licensed practitioner for the purpose of making recommendations regarding strategies for promoting and maintaining optimum health;

(r) “Independent living arrangement” means a situation where an individual does not receive daily and ongoing services and supervision but receives assistance, as needed, to maintain or develop skills to live independently and prevent circumstances that could necessitate more intrusive and costly services;

(s) “Individual” means a person with a developmental disability or acquired brain disorder;

(t) Inspection” means the process followed by the department to determine an applicant’s or a certificate holder’s compliance with RSA 151 and He-M 1001 or to respond to allegations, pursuant to RSA 151:6, of non-compliance with RSA 151 or He-M 1001;

(u) “License” means the written approval from the department of health and human services issued in accordance with either RSA 151 or RSA 170-E;

(v) “Licensed practitioner” means a medical doctor, dentist, physician’s assistant, advanced practice registered nurse, doctor of osteopathy, or doctor of naturopathic medicine;

(w) “Nurse trainer” means a registered nurse who has been designated as a trainer pursuant to He-M 1201.10;

(x) “Plan of correction (POC)” means a plan developed and written by the certificate holder, which specifies the actions that will be taken to correct non-compliance with applicable rules or codes identified at the time of an inspection conducted

(y*) “Provider” means a person receiving any form of remuneration for the provision of services to an individual;

(zw) “Provider agency” means an agency or an independent provider that is established to provide services to individuals and meets the criteria in He-M 504;

(aa*) “Residence administrator” means a person designated by a provider agency who has the authority to oversee the operation of a community residence;

(aby) “Service agreement” means a written agreement between an individual, guardian, or representative, and provider agency(ies) that is prepared as a result of a person-centered service planning process and that describes the services that the individual will receive and constitutes an individual service agreement as defined in RSA 171-A:2, X and developed pursuant to He-M 503 or He-M 522;

(acz) “Service coordinator” means a provider who meets the criteria in He-M 503.08 or He-M 522.09 and is chosen by an individual and their guardian or representative to organize, facilitate, and document service planning, and to negotiate and monitor the provision of the individual's services;

(ada) “Staff” means a person(s) employed by a provider agency, subcontract agency, or other employer;

(ae) “State monitoring” means the enhanced involvement in day-to-day operations by the department, area agencies, or service coordinators, to monitor the operation and conditions of the community residence;

(afb) “Supervision” means when a provider is physically present and able to assist an individual in the home and community; and

(age) “Team” means a service coordinator, individual, guardian, if applicable, and others invited by the individual to participate in the service planning and review meetings.

Readopt with amendment He-M 1001.11 through He-M 1001.14, effective 5-23-25 (Document #14255), to read as follows:

He-M 1001.11 Initial Certification Process.

(a) An applicant for initial certification as a community residence shall apply via an application form obtained from the office of legal and regulatory services entitled “Request for Certification of Community Residence and/or Community Participation Services Provider,” incorporated by reference in He-M 1001.230(a).

(b) Information entered on the form described in (a) above shall be typewritten or otherwise legibly written.

(c) The community residence shall submit with the application:

(1) A copy of any current waivers pertaining to the community residence; and

(2) A new, signed life safety code inspection from the local fire official, completed within the past 90 days.

(d) An applicant shall request initial certification for any of the following reasons:

(1) Certification of a new community residence; or

(2) For an existing community residence:

a. A change in physical location; or

b. An increase in the number of certified beds.

(e) If the signer of the application knew or should have known that the residential program was not in compliance with applicable statutes and rules at the time of signing, the department shall deny or revoke certification pursuant to He-M 1001.165 (a)(5) or He-M 1001.196 (a)(7).

(f) A temporary certification shall be granted for 60 days from the date that the office of legal and regulatory services receives all information required on the application form incorporated by reference in He-M 1001.20 (a).

(g) A certification review shall be conducted by the office of legal and regulatory services within 60 days of the date of receipt of all application information required in the application form incorporated by reference in He-M 1001.230 (a) for the purposes of determining whether or not the community residence is in compliance with He-M 1001.

(h) If the community residence is not in compliance with He-M 1001 at the certification review required by (g) above, the community residence shall submit a plan of correction in accordance with He-M 1001.14 (c) and (i), and the application form incorporated by reference in He-M 1001.230 (a).

(i) If, as a result of a certification review in accordance with (g) above, the community residence is found to be in compliance with He-M 1001, certification shall be granted as specified in He-M 1001.10 (f)(3).

(j) An application for certification shall be denied based upon criteria listed in He-M 1001.165 (a).

He-M 1001.12 Renewal Certification Process.

(a) A community residence seeking to renew certification shall apply via the application form obtained from the office of legal and regulatory services entitled "Request for Certification of Community Residence and/or Community Participation Services Provider" incorporated by reference in He-M 1001.230 (a)

(b) Information entered on the form described in (a) above shall be typewritten or otherwise legibly written.

(c) The community residence shall submit with the application:

(1) A copy of any current waivers pertaining to the community residence;

(2) A statement identifying any exception or variance applied for or granted by the state fire marshal in accordance with Saf-C 6005; and

(3) A new, signed approval from the local fire official if renovations were completed since the last submission of a life safety code inspection that:

a. Required a building permit pursuant to local building codes; or

b. Have altered any means of egress.

(d) Community residences applying for renewal certification shall submit the completed application in (a) above 60 days prior to the expiration of the certificate.

(e) The office of legal and regulatory services shall conduct an inspection in accordance with He-M 1001.14 (a) prior to recertification of:

- (1) A community residence that holds a license pursuant to RSA 151;
- (2) A community residence that has increased the number of people receiving residential or community participation services since its last inspection;
- (3) A community residence that had one or more deficiencies cited at its last renewal; and
- (4) A community residence that does not have an annual certificate.

(f) If at its previous annual inspection, a community residence had no deficiencies cited, the provider agency shall submit, 60 days prior to the expiration of the current certificate, the following in lieu of an onsite inspection:

- (1) A completed form "Request for Certification of Community Residence and/or Community Participation Services Provider" incorporated by reference in He-M 1001.230 (a); and
- (2) Written indication, signed by the provider agency's executive director, that the provider agency has monitored and will continue to monitor the residence and that the residence remains in full compliance with all applicable rules.

(g) A certification issued pursuant to (f) above shall only be granted once in any 2-year period.

(h) If, at the time an inspection is due, a community residence does not have any individuals living in the residence, it may:

- (1) Submit a letter notifying the office of legal and regulatory services of its intent to close; or
- (2) Submit a "Request for Certification of Community Residence and/or Community Participation Services Provider" incorporated by reference in He-M 1001.230 (a) to the office of legal and regulatory services for certification renewal without inspection.

(i) If a community residence has been approved in accordance with (f) above, the certificate shall indicate: "renewed without inspection."

(j) A provider agency shall notify the office of legal and regulatory services, in writing, within 7 days of an individual moving into the residence.

(k) Pursuant to He-M 1001.14, an on-site inspection shall be conducted, and a plan of correction submitted, if required, within 90 days of receipt of any notification in (j) above.

(l) The current certification shall be effective until recertification has been granted, or until the current certification has been denied or revoked.

He-M 1001.13 Emergency Certification Process.

(a) Emergency certification shall be granted to a community residence in accordance with (b) through (h) below.

(b) Within 7 days of an individual's moving into a community residence, the provider agency shall apply for an emergency certificate via the application form entitled "Emergency Certification for Community Residence- 3 for Fewer Beds," incorporated by reference in He-M 1001.230 (b). A current floor plan shall be submitted with that application.

(c) Information entered on the form described in (b) above shall be typewritten or otherwise be legibly written.

(d) The start date of the emergency certification shall be the date that the individual moves into the community residence and not more than 7 days from the receipt of the emergency application by the department.

(e) Emergency certification shall be issued for 45 days from the start date upon receipt by the office of legal and regulatory services application completed in accordance with He-M 1001.20 and pursuant to (b) above.

(f) An emergency certification issued pursuant to (e) above shall be extended for an additional 45 days for a community residence that:

(1) Submits to the office of legal and regulatory services evidence that the provider agency has made written request to the local fire inspector for a life safety inspection and report; and

(2) Files a written request for the extension with the office of legal and regulatory services prior to the expiration of the emergency certificate.

(g) Only one request for an extension to an emergency certificate shall be granted.

(h) A community residence operating under an emergency certification that seeks to continue operation shall apply for certification in accordance with He-M 1001.11.

(i) The service coordinator and licensed nurse shall visit the individual in the home in accordance with He-M 1001.06 (p) through (r).

He-M 1001.14 Inspections and Plans of Correction.

(a) The department shall conduct inspections to determine compliance with all applicable rules prior to:

(1) Issuing an initial certification; and

(2) Renewing a certificate except as allowed by He-M 1001.12 (f) or (g).

(b) The department shall investigate a complaint as described in He-M 1001.15.

(c) Following an inspection and determination pursuant to (a) above, the department shall issue a written inspection report that includes:

(1) The name and address of the physical location of the community residence;

(2) The name of the responsible provider agency(ies);

(3) The date of the inspection;

(4) A listing of all rules with which the community residence failed to comply;

(5) Evidence supporting the finding of non-compliance with each identified rule; and

(6) The name of the person(s) conducting the inspection.

(d) If deficiencies were cited in the inspection report, within 21 days of the date of issuance of the report, the community residence shall submit a written plan of correction or submit information as to why the

deficiency(ies) did not exist. The department shall evaluate any submitted information on its merits and render a written decision on whether a written plan of correction is necessary.

(e~~d~~) If one or more deficiencies cited pertain to He-M 1201, the residence administrator shall ensure that a copy of the deficiency report is provided to the nurse-trainer.

(f~~e~~) The plan of correction submitted in accordance with (d~~e~~) above shall specify:

- (1) How the community residence corrected or intends to correct and prevent occurrence of each deficiency; and
- (2) The date by which each deficiency will be corrected.

(f~~f~~) The department shall issue a certificate if it determines that the plan of correction:

- (1) Addresses each identified deficiency in a manner which achieves full compliance with rules cited in the inspection report;
- (2) Does not create a new violation of statute or rule as a result of its implementation; and
- (3) States a completion date.

(g~~g~~) The department shall reject a plan of correction that fails to comply with (f~~f~~) above.

(h~~h~~) If the proposed plan of correction is rejected, the department shall notify the community residence in writing of the reason(s) for rejection.

(i~~i~~) Within ~~1421~~ days of the date of the written notice under (h~~h~~) above, the community residence shall submit a revised plan of correction that:

- (1) Includes proposed alternatives that address the reason(s) for rejection; and
- (2) Is reviewed in accordance with (f~~f~~) and (h~~g~~) above.

(j~~j~~) If the revised plan of correction is rejected, the department shall deny the certification request.

(k~~k~~) The department shall verify that a plan of correction, as submitted and accepted, has been implemented by:

- (1) Reviewing materials submitted by the community residence;
- (2) Conducting a follow-up inspection; or
- (3) Reviewing compliance during the next certification inspection required by He-M 1001.14(a).

Adopt He-M 1001.15 to read as follows:

He-M 1001.15 Complaints

(a) The department shall investigate complaints and reports that allege:

- (1) Any violation, relating to a community residence, of RSA 126-A:20, He-M 310, He-M 504, He-M 506, He-M 507, He-M 1001, or He-M 1201; or

- (2) Non-compliance with any other directives or recommendations made by any department bureau or division as a result of an investigation.
- (b) When practicable, the complaint shall be in writing and contain the following information:
- (1) The name and address of the community residence;
 - (2) The name, address, and telephone number of the complainant; and
 - (3) A description of the situation that supports the complaint and the alleged violation(s).
- (c) Investigations shall include all techniques and methods for gathering information which are appropriate to the circumstances of the complaint, including, but not limited to:
- (1) Requests for additional information from the complainant;
 - (2) A physical inspection of the premises;
 - (3) Review of any records that might be relevant and have probative value; and
 - (4) Interviews with any person and staff of an area agency or provider agency who might have information that is relevant to the investigation and might have probative value.
- (d) Complaint investigation files shall be confidential in accordance He-M 310.05(e), and shall not be disclosed publicly, but shall be released by the department on written request only:
- (1) To the department of justice when relevant to a specific investigation;
 - (2) To law enforcement when relevant to a specific criminal investigation;
 - (3) When a court of competent jurisdiction orders the department to release such information; or
 - (4) In connection with an adjudicative proceeding relative to the certificate holder.

Readopt with amendment and renumber He-M 1001.15, effective 5-23-25 (Document #14255), as He-M 1001.16, to read as follows:

He-M 1001.~~1645~~ Denial of Certification.

- (a) The department shall deny an application for certification, following written notice pursuant to (b) below and opportunity for a hearing pursuant to He-C 200, due to any of the following reasons:
- (1) Any abuse, neglect, or exploitation of an individual by an applicant, residence administrator, provider, staff member, or person living in a community residence that is listed on the state registry of abuse, neglect, and exploitation in accordance with RSA 161:F-49 or RSA 169-C:35;
 - (2) Any applicant, provider, staff member, or person living in the community residence has been found guilty of fraud, a felony, or a misdemeanor against a person in this or any other state by a court of law, unless a waiver has been obtained pursuant to He-M 1001.~~49;22~~

- (3) A provider agency fails to perform criminal background checks on all persons who are paid to provide services under He-M 1001;
- (4) An applicant, provider, staff member, or person living in the community residence has an illness or behavior that, as evidenced by the documentation obtained or the observations made by the department, would endanger the well-being of the individuals or impair the ability of the community residence to comply with department rules and the provider agency failed to take action to address the behavior and mitigate the danger;
- (5) An applicant or provider, or any representative or employee of the applicant or provider, knowingly provides materially false or misleading information to the department;
- (6) An applicant or provider, or any representative or employee of the applicant or provider, fails to permit or interferes with any inspection or investigation by the department;
- (7) An applicant or provider, or any representative or employee of the applicant or provider, fails to provide required documents to the department;
- (8) At an inspection the applicant or certificate holder is not in compliance with RSA 171-A or He-M 1001 or other applicable federal and state rules and regulations;
- (9) An applicant or provider has a history of multiple or repeat violations of RSA 171-A or its implementing administrative rules that pose, or have posed, a health or safety risk to individuals;
- (10) An applicant or provider has submitted a revised plan of correction that has been rejected by the department in accordance with He-M 1001.14 (j)(g);
- (11) An applicant or provider has failed to fully implement or continue to comply with a plan of correction that has been accepted by the department in accordance with He-M 1001.14 (f)(k); or
- (12) For community residences for 4 or more individuals, denial or revocation of licensure or denial of application for licensure has taken place.

(b) Certification shall be denied upon the written notice by the department to the community residence stating the specific rule(s) with which the residence does not comply.

(c) Any applicant or provider aggrieved by the denial of certification may request an adjudicative proceeding in accordance with He-M 1001.18. The denial shall not become final until the period for requesting an adjudicative proceeding has expired or, if the applicant or provider requests an adjudicative proceeding, until such time as the administrative appeals unit issues a decision upholding the department's action.

(d) A community residence shall not accept additional individuals if a notice of denial of certification has been issued.

Adopt He-M 1001.17 and He-M 1001.18 to read as follows:

He-M 1001.17 Administrative Remedies.

(a) The department shall impose administrative remedies, relating to community residences, for violations of RSA 126, RSA 171-A He-M 310, He-M 503, He-M 504, He-M 506, He-M 507, He-M 1001, or He-M 1201 including:

- (1) Imposing a directed POC in accordance with (d) below;
- (2) Imposing conditions upon a certification; or

(3) Monitoring of a community residence in accordance with (l) below.

(b) When administrative remedies are imposed, the department shall provide written notice, as applicable, which:

(1) Identifies each area in which the provider is not in compliance with RSA 126, RSA 171-A He-M 310, He-M 503, He-M 504, He-M 506, He-M 507, He-M 1001, or He-M 1201; and

(2) Identifies the specific remedy(s) that has been imposed.

(c) The department shall develop and impose a directed POC that specifies corrective actions for the provider to implement when:

(1) As a result of an inspection, areas of non-compliance were identified that require immediate corrective action to protect the health and safety of the individuals and employees;

(2) A revised POC is not submitted within 14 days of the written notification from the department or such later date as is applicable if an extension was granted by the department; or

(3) A revised POC submitted by the administrator has not been accepted.

(d) If, at the time of the next inspection, the directed POC referenced in (c) above is not implemented by the completion date stated in the directed POC, the department shall take one of the following actions depending on the severity of the issue and the health and safety of those in care:

(1) Deny the application for a renewal of a certification in compliance with He-M 1001.16; or

(2) Withdraw the certificate in accordance with He-M 1001.18.

(e) The department shall offer an opportunity for informal dispute resolution to any applicant or certificate holder who disagrees with an area or areas of non-compliance cited by the department on a statement of findings, provided that the applicant or certificate holder submits a written request for an informal dispute resolution.

(f) The informal dispute resolution shall be requested in writing by the applicant, provider, or residence administrator no later than 14 days from the date the statement of findings was issued by the department.

(g) The department shall change the statement of findings if, based on the evidence presented, the statement of findings is determined to be incorrect.

(h) The department shall provide a written notice to the applicant or provider of the determination.

(i) The deadline to submit a POC in accordance with He-M 1001.14(d) above shall not apply until the notice of the determination in (h) above has been provided to the applicant or licensee.

(j) An informal dispute resolution shall not be available for any applicant or provider against whom the department has imposed an administrative fine, initiated action to suspend or revoke a certification, or denied an application for a certification.

(l) The department shall impose state monitoring, under the following conditions:

- (1) Repeated non-compliance on the part of the community residence in areas that impact health, safety, or well-being of individuals;
- (2) The presence of conditions in the community residence that negatively impact the health, safety, or well-being of individuals; or
- (3) Concern that the community residence is not ending the pattern of citations for violations of rules and coming into compliance with those rules.

He-M 1001.18 Enforcement Actions and Hearings.

(a) Prior to taking enforcement action against an applicant or provider agency, the department shall send to the applicant or provider agency a written notice that sets forth:

- (1) The reasons for the proposed action;
- (2) The action to be taken by the department; and
- (3) The right of an applicant or provider agency to an administrative hearing in accordance with RSA 151:8 or RSA 541-A:30, III, as applicable, before the enforcement action becomes final.

(b) The department shall deny an application or withdraw a certification if:

- (1) An applicant or a provider agency violated RSA 126, RSA 171-A He-M 310, He-M 503, He-M 504, He-M 506, He-M 507, He-M 1001, or He-M 1201 rules in a manner which poses a risk of harm to an individual's health, safety, or well-being;
- (2) An applicant or a provider agency has had a check returned to the department for insufficient funds and has not re-submitted the outstanding fee in the form of cash, money order, or certified check;
- (3) After being notified of and given an opportunity to supply missing information, an applicant or provider agency fails to submit an application that meets the requirements of He-M 1001.11(a) and He-M 1001.12(a);
- (4) An applicant, provider agency, or any representative or staff of the applicant or provider:
 - a. Provides false or misleading information to the department;
 - b. Prevents, interferes, or fails to cooperate with any inspection or investigation conducted by the department; or
 - c. Fails to provide requested files or documents to the department;
- (5) The provider agency failed to implement a POC that has been accepted or imposed by the department in accordance with He-M 1001.14.

(6) The provider agency is cited a third time under RSA 126, RSA 171-A He-M 310, He-M 503, He-M 504, He-M 506, He-M 507, He-M 1001, or He-M 1201, as applicable, for the same violations within the last 5 inspections;

(7) A provider agency has had a certification withdrawn and submits an application during the 5-year prohibition period specified in (i) below;

(8) Unless a waiver has been granted, upon inspection, the applicant's premise is not in compliance with RSA 126, RSA 171-A, He-M 310, He-M 503, He-M 504, He-M 506, He-M 507, He-M 1001, or He-M 1201;

(9) Unless a waiver has been granted, the department makes a determination that the applicant, administrator, provider, or a household member has been convicted of or adjudicated for a sexual assault or other violent crime, theft or fraud, or a finding of abuse, neglect or exploitation in this or any other state, or poses a threat to the health, safety, or well-being of an individual; or

(10) The applicant or provider agency has had a certificate or license withdrawn or revoked by another division or unit of the department within a 5 year period of the application.

(c) An applicant or certificate holder shall have 30 days after receipt of the notice of enforcement action to request a hearing to contest the action.

(d) If a written request for a hearing is not made pursuant to (c) above, the action of the department shall become final.

(e) The department shall order the immediate suspension of a certification and the cessation of operations when it finds that the health, safety, or well-being of individuals is in jeopardy and emergency action is required in accordance with RSA 541-A:30, III.

(f) If an immediate suspension is upheld, the provider shall not resume operating until the department determines through inspection that compliance with RSA 126, RSA 171-A He-M 310, He-M 503, He-M 504, He-M 506, He-M 507, He-M 1001, or He-M 1201 is achieved.

(g) Hearings under this section shall be conducted in accordance with RSA 541-A and He-C 200.

(h) When a community residence's certification has been denied or withdrawn, if the enforcement action specifically pertained to their role in the community residence, the applicant or provider agency shall not be eligible to reapply for a certificate for at least 5 years.

(i) The 5 year period referenced in (h) above shall begin on:

(1) The date of the department's decision to withdraw or deny the certificate, if no appeal is filed;
or

(2) The date a final decision upholding the action of the department is issued, if a request for a hearing is made and a hearing is held.

(j) Notwithstanding (i) above, the department shall consider an application submitted after the decision to withdraw or deny becomes final, if the applicant demonstrates that circumstances have changed to the extent that the department now has 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 126, RSA 171-A He-M 310, He-M 503, He-M 504, He-M 506, He-M 507, He-M 1001, or He-M 1201.

(k) If the department has reasonable information or evidence that a licensee, applicant, administrator, or others are circumventing rule (h) above by applying for a license through an agent or other person and will retain ownership, management authority, or both, the department shall deny the application.

(l) RSA 541-A shall govern further appeals of department decisions under this section.

(m) No ongoing enforcement action shall preclude the imposition of any remedy available to the department under RSA 126, RSA 171-A He-M 310, He-M 503, He-M 504, He-M 506, He-M 507, He-M 1001, or He-M 1201

Readopt with amendment and renumber He-M 1001.16 through He-M 1001.20, effective 5-23-25 (Document #14255), as He-M 1001.19 through He-M 1001.23, to read as follows:

He-M 1001.~~19~~¹⁶ Revocation of Certification.

(a) The department shall revoke a certification, following written notice pursuant to (b) below and opportunity for a hearing pursuant to He-C 200, due to any of the following reasons:

(1) Any reported abuse, neglect, or exploitation of an individual by a certificate holder, residence administrator, provider, staff member, or person living in a community residence, if:

a. Such abuse, neglect, or exploitation is reported on the state registry of abuse, neglect, and exploitation in accordance with RSA 161-F:49 or RSA 169-C:35;

b. Such person(s) continues to have contact with the individual; and

c. Such finding has not been overturned on appeal, been annulled, or received a waiver pursuant to He-M 1001.~~22~~¹⁹;

(2) Any provider, staff member, or person living in the community residence has been found guilty of fraud, a felony, or a misdemeanor against a person in this or any other state by a court of law, unless a waiver has been obtained pursuant to He-M 1001.~~22~~¹⁹;

~~(3)~~ A provider agency fails to perform criminal background checks on all persons who are paid to provide services under He-M 1001.

~~(4)~~ The certificate holder or a staff member or person living in the community residence has an illness or behavior that, as evidenced by the documentation obtained or the observations made by the department, would endanger the well-being of the individuals or impair the ability of the community residence to comply with department rules and the provider agency failed to take action to address the behavior and mitigate the danger;

~~(5)~~ The certificate holder or any representative or employee of the certificate holder knowingly provides materially false or misleading information to the department;

~~(6)~~ The certificate holder or any representative or employee of the certificate holder fails to permit or interferes with any inspection or investigation conducted by the department;

~~(7)~~ The certificate holder or any representative or employee of the certificate holder fails to provide required documents to the department;

~~(8+9)~~ At an inspection, the certificate holder is not in compliance with RSA 171-A or He-M 1001 or other applicable certification rules;

~~(9+1)~~ The certificate holder has a history of multiple or repeat violations of RSA 171-A or its implementing administrative rules that pose, or have posed, a health or safety risk to individuals;

~~(10+2)~~ The certificate holder has submitted a revised plan of correction that has been rejected by the department in accordance with He-M 1001.14(g);

~~(11+3)~~ The certificate holder has failed to fully implement or continue to comply with a plan of correction that has been accepted by the department in accordance with He-M 1001.14(f); or

~~(12+4)~~ For community residences for 4 or more individuals, denial or revocation of licensure or denial of application for licensure has taken place.

(b) Certification shall be revoked upon the written notice by the department to the community residence stating the specific rule(s) with which the residence does not comply.

(c) Any certificate holder aggrieved by the revocation of the community residence's certificate may request an adjudicative proceeding in accordance with He-M 1001.18. The revocation shall not become final until the period for requesting an adjudicative proceeding has expired or, if the certificate holder requests an adjudicative proceeding, until such time as the administrative appeals unit issues a decision upholding the department's action.

(d) A community residence shall not accept additional individuals if a notice of revocation of certification has been issued.

(e) If certification has been revoked, the certificate holder, in conjunction with the provider agency, shall transfer all individuals to another appropriately certified residence and in accordance with He-M 504.

He-M 1001.~~20+7~~ Immediate Suspension of Certification.

(a) Notwithstanding the provision of He-M 1001.~~19+6~~ (c), in the event that a violation poses an immediate and serious threat to the health or safety of an individual, the bureau administrator shall, in accordance with RSA 541-A:30, III, suspend a community residence's certification immediately upon issuance of written notice specifying the reasons for the action.

(b) The bureau administrator, or their designee, shall schedule and hold a hearing within 10 business days of the suspension for the purpose of determining whether to revoke or reinstate the certification. The hearing shall provide opportunity for the provider, residence administrator or provider agency, whose certification has been suspended to demonstrate that it has been, or is, in compliance with the specified requirements.

He-M 1001.~~21+8~~ Appeals.

(a) An applicant for certification, provider, residence administrator, or provider agency may request a hearing regarding a denial or revocation of certification, except as provided in He-M 1001.~~20+7~~ above.

(b) Appeals shall be submitted, in writing, to the bureau administrator in care of the department's office of client and legal services within 10 days following the date of the notification of denial or revocation of certification.

(c) The bureau administrator or their designee shall immediately forward the appeal to the department's administrative appeals unit which shall assign a presiding officer to conduct a hearing or independent review, as provided in He-C 200. The burden shall be as provided by He-C 203.14.

He-M 1001.~~2249~~ Waivers.

(a) An applicant for certification, provider, residence administrator, provider agency, area agency, or individual may request, as applicable, a waiver of specific procedures outlined in He-M 1001 by applying via the form entitled "NH Bureau of Developmental Services Waiver Request," incorporated by reference in He-M 1001.~~230~~ (d).

(b) A completed waiver request form shall be signed by:

- (1) The individual or guardian indicating agreement with the request, if applicable; and
- (2) The provider agency's executive director or designee recommending approval of the waiver, when the waiver is requested by a provider agency.

(c) No provision or procedure prescribed by statute shall be waived.

(d) The request for a waiver shall be granted by the commissioner or their designee within 30 days if the alternative proposed by the requesting entity meets the objective or intent of the rule and it:

- (1) Does not negatively impact the health or safety of the individual(s); and
- (2) Does not affect the quality of services to individuals.

(e) The determination on the request for a waiver shall be made within 30 days of the receipt of the request.

(f) Upon receipt of approval of a waiver request, the requesting entity's subsequent compliance with the alternative provisions or procedures approved in the waiver shall be considered compliance with the rule for which waiver was sought.

(g) Waivers shall be granted in writing for the minimum period necessary to accommodate the waiver request, with the specific duration not to exceed 5 years except as in (g) and (i) below.

(h) Those waivers which relate to the following shall be effective for the current certification period only:

- (1) Fire safety; or
- (2) Other issues relative to the health, safety, or welfare of individuals that require periodic reassessment.

(i) Any waiver shall end with the closure of the related program or service.

(j) A provider, residence administrator, subcontract agency, area agency, or individual as applicable, may request a renewal of a waiver from the bureau. Such request shall be made at least 90 days prior to the expiration of a current waiver.

He-M 1001.~~230~~ Required Forms.

(a) Applicants or community residences applying for an initial or renewal certification shall complete and submit the form entitled "Request for Certification of Community Residence and/or Community Participation Services Provider" (May 2025).

(b) Applicants applying for emergency certification shall:

(1) Complete and submit the form entitled “Emergency Certification for Community Residence- 3 or Fewer Beds” (May 2025) certifying the following:

“I Certify that:

A. (Individual’s name), born on (date of birth) needed immediate placement on (date) to protect his/her health and safety because _____.

B. There is no condition within the above residence that would pose a health or safety threat to the client.

C. This residence is in full compliance with the statutes and regulations governing Community Residences.”; and

(2) Include a signature from the executive director of the responsible provider agency that verifies that the appropriate staff determined that the home meets the requirements of He-M 503, He-M 522, He-M 1001, He-M 1201, and He-M 507, as applicable.

(c) Forms completed in accordance with (a) or (b) above shall be submitted to the department via:

(1) Email at communityresidences@dhhs.nh.gov;

(2) By fax to (603) 271-4968; or

(3) By mail to:

Department of Health and Human Services
Office of Legal and Regulatory Services
Health Facilities Administration
129 Pleasant Street
Concord NH 03301

(d) Applicants or community residences applying for a waiver shall:

(1) Complete and submit the form entitled “NH Bureau of Developmental Services Waiver Request” (October 2023); and

(2) Include a signature from the individual(s) or legal guardian(s) indicating agreement with the request and the provider agency’s executive director or designee recommending approval of the waiver, when the waiver is requested by a provider agency, and be submitted to the department via:

a. Email at bds@dhhs.nh.gov;

b. Fax to (603) 271-5166; or

b. By mail to:

The Bureau of Developmental Services
Hugh J. Gallen State Office Park
105 Pleasant Street, Main Building
Concord, NH 03301

APPENDIX B: STATE STATUTES IMPLEMENTED

Rule	Specific State Statute Which the Rule Implements
He-M 1001.02	RSA 126-A:19 and 20
He-M 1001.11- He-M 1001.23	RSA 126-A:19 and 20