

He-P 803.11 Complaints.

(a) The department shall investigate complaints that allege:

- (1) A violation of RSA 151 or He-P 803;
- (2) That an individual or entity is operating as a nursing home without being licensed; or
- (3) That an individual or entity is advertising or otherwise representing the nursing home as having or performing services for which they are not licensed to provide, pursuant to RSA 151:2, III.

(b) When practicable the complaint shall be in writing and contain the following information:

- (1) The name and address of the nursing home, or the alleged unlicensed individual or entity;
- (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) of RSA 151 or He-P 803.

(c) For the nursing home, the department shall:

- (1) Provide written notification of the results of the investigation to the licensee along with an inspection report if deficiencies were found as a result of the investigation; and
- (2) Notify any other federal, state or local agencies of alleged violations of their statutes or rules based on the results of the investigation, as appropriate.

(d) If the department determines that the complaint is unfounded or that the alleged act does not violate any statutes or rules, the department shall so notify the unlicensed individual or licensee and take no further action.

(e) If the investigation results in deficiencies being cited, the licensee shall be required to submit a POC in accordance with He-P 803.12(c).

(f) For the unlicensed individual or entity the department shall provide written notification to the owner or person responsible that includes:

- (1) The date of inspection;

(2) The reasons for the inspection; and

(3) Whether or not the inspection resulted in a determination that the services being provided require licensing under RSA 151:2, I(f).

(g) The owner or person responsible shall be allowed 7 days from the date of receipt of the notice required by (f) above to respond to a finding that they are operating without a license or submit a completed

application for a license in accordance with RSA 151:7-a, II.

(h) If the owner of an unlicensed nursing home does not comply with (g) above, or if the department does not agree with the owner's response, the department shall:

(1) Issue a written warning to immediately comply with RSA 151 and He-P 803; and

(2) Provide notice stating that the individual has the right to appeal the warning in accordance with RSA 151:7-a, III.

(i) Any person or entity who fails to comply after receiving a warning, as described in (h) above, shall be subject to an action by the department for injunctive relief under RSA 151:17.

(j) The fact that the department takes action for injunctive relief under RSA 151:17 shall not preclude the department from taking other action under RSA 151, He-P 803 or other applicable laws.

(k) Complaint investigation files shall be confidential in accordance with RSA 151:13, 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 any adjudicative proceedings relative to the licensee.

Source. #9856-A, eff 1-26-11