

**He-P 803.18 Personnel.**

(a) The licensee shall develop a job description for each position at the nursing home containing:

- (1) Duties of the position;
- (2) Physical requirements of the position; and
- (3) Education and experience requirements of the position.

(b) All direct care personnel shall be at least 18 years of age unless they are:

- (1) A student in a New Hampshire board of nursing approved licensed nursing assistant program; or
- (2) A licensed nursing assistant working under the supervision of a nurse in accordance with Nur 700; or
- (3) Part of an established educational program working under the supervision of a nurse.

(c) For all new hires, the licensee shall:

- (1) Obtain and review a criminal records check from the New Hampshire department of safety in accordance with RSA 151:2-d;
- (2) Verify the qualifications and licenses, as applicable, of all applicants prior to employment; and
- (3) Verify that the applicant is not on the List of Excluded Individuals and Entities, maintained by the U.S. Department of Health and Human Services Office of Inspector General per 42 USC 1320-a7 or on the BEAS Registry maintained by the department's bureau of elderly and adult services per RSA 161-F:49.

(d) Unless a waiver is granted in accordance with He-P 803.10 and (e) below, the licensee shall not make a final offer of employment for any position if the individual:

- (1) Has been convicted of any felony in this or any other state;
- (2) Has been convicted for sexual assault, other violent crime, assault, fraud, abuse, neglect or exploitation;

(3) Has had a finding by the department or any administrative agency in this or any other state for assault, fraud, abuse, neglect or exploitation of any person; or

(4) Otherwise poses a threat to the health, safety or well-being of residents.

(e) The department shall grant a waiver of (d) above if, after reviewing the underlying circumstances, it determines that the person does not pose a threat to the health, safety or well-being of residents.

(f) The waiver in (e) above shall be permanent unless additional convictions or findings under (d) above occur.

(g) The department shall review the information in (d) above and notify the licensee that the individual can no longer be employed if, after investigation, it determines that the individual poses a threat to the health,

safety or well-being of a resident.

(h) All employees shall:

(1) Meet the educational and physical qualifications of the position as listed in their job description;

(2) Not be permitted to maintain their employment if they have been convicted of a felony, sexual assault, other violent crime, assault, fraud, abuse, neglect or exploitation of any person in this or any other state by a court of law or had a complaint investigation for abuse, neglect, or exploitation adjudicated and founded by the department unless a waiver has been granted by the department;

(3) Be licensed, registered or certified as required by state statute and as applicable;

(4) Receive an orientation within the first 3 days of work or prior to the assumption of duties that includes:

a. The nursing home's policies on patient rights and responsibilities and complaint procedures as required by RSA 151:20;

b. The duties and responsibilities, policies procedures and guidelines, of the position they were hired for;

- c. The nursing home's infection control program;
  - d. The nursing home's fire, evacuation and emergency plans which outline the responsibilities of personnel in an emergency; and
  - e. Mandatory reporting requirements for abuse or neglect such as those found in RSA 161-F and RSA 169-C:29; and
- (5) Complete a mandatory annual in-service education, which includes a review of the nursing home's:
- a. Policies and procedures on patient rights and responsibilities and abuse or neglect;
  - b. Infection control; and
  - c. Education program on fire and emergency procedures.
- (i) Prior to having contact with residents, employees shall:
- (1) Submit to the licensee the results of a physical examination or a health screening performed by a licensed nurse or a licensed practitioner and the results of a 2-step tuberculosis (TB) test, Mantoux method or other method approved by the Centers for Disease Control, conducted not more than 12 months prior to employment;
  - (2) Be allowed to work while waiting for the results of the second step of the TB test when the results of the first step are negative for TB; and
  - (3) Comply with the requirements of the Centers for Disease Control "Guidelines for Preventing the Transmission of Tuberculosis in Health Facilities Settings" (2005 edition) if the person has either a positive TB test, or has had direct contact or potential for occupational exposure to Mycobacterium tuberculosis through shared air space with persons with infectious tuberculosis.
- (j) All licensees using the services of independent contractors as direct care personnel shall ensure and document that the independent clinical contractors have:
- (1) Been oriented in accordance with (h)(4) above;
  - (2) Documented results of tuberculosis testing, either Mantoux method or blood assay, as

required by (i)(1) above;

(3) Licenses that are current and valid; and

(4) A written agreement that describes the services that will be provided.

(k) Current, separate and complete employee files shall be maintained and stored in a secure and confidential manner at the nursing home.

(l) The employee file shall include the following:

(1) A completed application for employment or a resume, including:

a. Identification data; and

b. The education and work experience of the employee;

(2) A signed statement acknowledging the receipt of the nursing home's policy setting forth the patient's rights and responsibilities, and acknowledging training and implementation of the policy as required by RSA 151:20;

(3) A job description signed by the individual that identifies the:

a. Position title;

b. Qualifications and experience; and

c. Duties required by the position;

(4) A record of satisfactory completion of the orientation program required by (h)(4) above and any required annual continuing education, if any;

(5) Verification of current New Hampshire license, registration or certification in health care field and CPR certification, if applicable;

(6) Documentation that the required physical examination, or health screening, and TB test results or radiology reports of chest x-rays, if required, have been completed by the appropriate health professionals;

(7) Documentation of annual in-service education as required by (h)(5) above;

(8) A statement, which shall be signed at the time the initial offer of employment is made and

then annually thereafter, stating that he or she:

- a. Does not have a felony conviction in this or any other state;
- b. Has not been convicted of a sexual assault, other violent crime, assault, fraud, abuse, neglect or exploitation or pose a threat to the health, safety or well-being of a resident; and
- c. Has not had a finding by the department or any administrative agency in this or any other state for assault, fraud, abuse, neglect or exploitation of any person;

(9) Documentation of the criminal records check, except for persons licensed by the NH board of nursing pursuant to RSA 326-B as allowed by RSA 151:2-d, VI; and

(10) Documentation that the individual or entity is not on the List of Excluded Individuals and Entities, maintained by the U.S. Department of Health and Human Services Office of Inspector General per 42 USC 1320-a7 or on the BEAS registry maintained by the department's bureau of elderly and adult services per RSA 161-F:49.

(m) An individual need not re-disclose any of the matters in (l)(8) and (l)(9) above if the documentation is available and the department has previously reviewed the material and granted a waiver so

that the individual can continue employment.

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