

Part Child Day Care Licensing

TITLE XII

PUBLIC SAFETY AND WELFARE

Chapter 170-E

CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-PLACING AGENCIES

Child Day Care Licensing

Section 170-E:1

170-E:1 Purpose. – The purpose of this subdivision is to provide for the licensing of child day care agencies.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:2

170-E:2 Definitions. –

In this chapter:

I. "Applicant" means a person, institution or agency who intends to receive for child day care one or more children unrelated to the operator and who indicates that intent to the department by filling out the forms prescribed by rule adopted by the commissioner pursuant to RSA 541-A.

II. "Child" means any person under 18 years of age.

III. "Child day care" means the care and supervision of a child away from the child's home and apart from the child's parents.

IV. "Child day care agency" means any person, corporation, partnership, voluntary association or other organization, either established for profit or otherwise, which regularly receives for child day care one or more children, unrelated to the operator or staff of the agency. The total number of hours in which a child may remain in child day care shall not exceed 13 hours per day, except in emergencies. The types of child day care agencies are defined as follows:

[Paragraph IV(a) effective until June 30, 2024; see also paragraph IV(a) set out below.]

(a) "Family day care home" means an occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for up to 6 children from one or more unrelated families. The 6 children shall include any foster children residing in the home and all children who are related to the caregiver except children who are 10 years of age or older. In addition to the 6 children, up to 3 children attending a full day school program may also be cared for up to 5 hours per day on school days and all day during school holidays.

[Paragraph IV(a) effective June 30, 2024; see also paragraph IV(a) set out above.]

(a) "Family day care home" means an occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for up to 6 children from one or more unrelated families. The 6 children shall include any foster children residing in the home and all children who are related to the caregiver except children who are 10 years of age or older. In addition to the 6 children, up to 3 children attending a full day

school program may also be cared for up to 5 hours per day on school days and all day during school holidays, provided that the after school and holiday increase in capacity is permitted by the state fire code and in compliance with any local ordinance.

[Paragraph IV(b) effective until June 30, 2024; see also paragraph IV(b) set out below.]

(b) "Family group day care home" means an occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for 7 to 12 children from one or more unrelated families. The 12 children shall include all children related to the caregiver and any foster children residing in the home, except children who are 10 years of age or older. In addition to the 12 children, up to 5 children attending a full day school program may also be cared for up to 5 hours per day on school days and all day during school holidays.

[Paragraph IV(b) effective June 30, 2024; see also paragraph VI(b) set out above.]

(b) "Family group day care home" means an occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for 7 to 12 children from one or more unrelated families. The 12 children shall include all children related to the caregiver and any foster children residing in the home, except children who are 10 years of age or older. In addition to the 12 children, up to 5 children attending a full day school program may also be cared for up to 5 hours per day on school days and all day during school holidays, provided that the after school and holiday increase in capacity is permitted by the state fire code and in compliance with any local ordinance.

(c) "Group child day care center" means a child day care agency in which child day care is provided for preschool children and up to 5 school-age children, whether or not the service is known as day nursery, nursery school, kindergarten, cooperative, child development center, day care center, center for the developmentally disabled, progressive school, Montessori school, or by any other name.

(d) "Infant and toddler program" means a child day care agency in which child day care is provided for any part of a day, for 5 or more children under the age of 3 years.

(e) "Night care agency" means a center or family home in which child day care is provided during the evening and night hours. A child day care agency may be licensed for day care, night care, or both.

(f) "Preschool program" means a child day care agency providing care and a structured program for children 3 years of age and older who are not attending a full day school program. The total amount of hours a child may be enrolled in a preschool program shall not exceed 5 hours per day.

(g) "School-age program" means a child day care agency providing child day care before or after, or before and after, regular school hours, and all day any time school is not in session, for 6 or more children enrolled in school, who are 4 years and 8 months of age or older, and which is not licensed under RSA 170-E:56. The number of children shall include all children present during the period of the program, including those children related to the caregiver.

(h) "Dual licensure" means the issuance of 2 licenses by the department of health and human services to operate both a child day care agency and a family foster care agency, as provided by RSA 170-E:8, II.

[Paragraph IV(i) effective June 30, 2024.]

(i) "Small group child day care center" means a child day-care agency in which child day care is provided for not more than 12 preschool children, whether or not the service is known as day nursery, nursery school, kindergarten, cooperative, child development center, day-care center, center for the developmentally disabled, progressive school, Montessori school, or by any other name.

V. "Commissioner" means the commissioner of the department of health and human services.

VI. "Corrective action plan" means a written proposal setting forth the procedures by which a child day care agency will come into compliance with the standards set by rules adopted by the commissioner under RSA 541-A, and subject to the approval of the department. The proposal shall include the time needed to assure compliance and the steps proposed by the agency to reach compliance.

VII. "Department" means the department of health and human services.

VIII. "Guardian" means the guardian of the person of a minor, as defined in RSA 463.

IX. "License" means an authorization granted by the commissioner to provide one or more types of child day care.

X. "Monitoring visit" means a visit made to the child day care agency by department personnel for the purpose of assessing compliance with the standards set by rule adopted by the commissioner pursuant to RSA 541-A.

XI. "Permit" means the initial authorization to operate issued to an operator of a child day care agency, which shall not be renewable except for good cause shown.

XI-a. "Recreational program" means any before and/or after school, vacation, or summer program for children 4 years and 8 months of age or older offered by a school or religious group, the Boys and Girls Clubs of America, Girls, Incorporated, the YMCA, or the YWCA, provided that the program:

(a) Does not operate in a private home;

(b) Notifies parents or guardians that the program is not subject to licensure under RSA 170-E:4;

(c) Has policies and procedures to address the filing of grievances by parents and guardians; and

(d) Is a member in good standing and in compliance with the national organization's minimum standards and procedures.

XII. "Regularly" or "on a regular basis" means supervision and care up to and including 7 days a week, whether paid or unpaid, for the following as defined in RSA 170-E:2, IV: (a) family day care home, (b) family group day care home, (c) group child day care center, (d) day care nursery, (e) night care agency, (f) preschool program, and (g) school-age program.

XIII. "Related" means any of the following relationships by blood, marriage, or adoption: parent, grandparent, brother, sister, stepparent, stepgrandparent, stepbrother, stepsister, uncle, aunt, niece and nephew, first cousin, or second cousin.

Source. 1990, 257:8. 2005, 156:1, eff. Aug. 20, 2005. 2019, 346:132, eff. Jan. 1, 2020. 2021, 122:48, eff. July 9, 2021. 2023, 167:1, eff. July 28, 2023; 209:1, eff. Oct. 3, 2023; 218:2, 3, eff. June 30, 2024.

Section 170-E:3

170-E:3 Exemptions; Child Endangerment Prohibited. –

I. The definitions in RSA 170-E:2, IV shall not apply to the following:

(a) Kindergartens, nursery schools, or any other daytime programs operated by a public or private elementary or secondary school system or institution of higher learning.

(b) Programs offering instruction to children, including but not limited to athletics, crafts, music, or dance, the purpose of which is the teaching of a skill.

(c) Private homes in which any number of the provider's own children, whether related biologically or through adoption, and up to 3 additional children are cared for regularly for any part of the day, but less than 24 hours, unless the caregiver elects to comply with the provisions of this chapter and be licensed.

(d) Child care services offered in conjunction with religious services attended by the parent or offered solely for the purpose of religious instruction.

(e) Facilities operated as a complimentary and limited service for the benefit of the general public in connection with a shopping center, ski area, bowling alley, or other similar operation where the parents or custodians of the serviced children are on the premises or in the immediate vicinity and are readily available.

(f) Municipal recreation programs, including after-school and summer recreation programs.

(g) Any recreational program as defined in RSA 170-E:2, XI-a.

(h) Private homes in which the only children in care are the provider's own children, children related to the provider, and children residing with the provider.

(i) A facility licensed as a family child care provider by a branch of the United States Department of Defense, Army, Navy, Marine Corps, Air Force, Space Force, or by the United States Coast Guard.

II. Persons administering programs exempted from licensing pursuant to this section shall be subject to the provisions of RSA 170-E:4, II.

III. Whenever a child day care that is license exempt under subparagraphs I(c), (e), (f), or (g) accepts a new child into the program, the provider shall inform the child's parent or legal guardian that the program is not licensed and is operating as a legally license exempt program.

IV. If a licensed child day care agency ceases operating as a licensed program and continues to provide child care

services as a legally license exempt provider, it shall notify the department of the date it ceased being licensed, return its license to the department, and notify the parent or legal guardian of all children in the program or who enroll in the program that it is no longer licensed by the department.

Source. 1990, 257:8. 1994, 375:1. 1995, 114:1. 1998, 119:1. 2004, 235:1. 2005, 156:2, eff. Aug. 20, 2005. 2016, 161:6, eff. June 3, 2016. 2023, 21:5, eff. July 3, 2023.

Section 170-E:3-a

170-E:3-a Criminal Records and Central Registry Check of Child Day Care Providers Exempt From Licensing. – Any child day care providers exempt from licensing under RSA 170-E:3 which receive state funds or subsidies in payment for the provision of child day care shall, as a condition of receiving state funds or subsidies, provide their names, birth names, birth dates and addresses, and the same information for any individual residing in the child day care provider's household who may be responsible for the care of, or is in regular contact with children, to the department prior to the receipt of state funds or subsidies on or before July 1, 1999, and every 3 years thereafter. The department shall conduct criminal records and central registry checks on these names in accordance with the provisions of RSA 170-E:7.

Source. 1998, 147:1, eff. Jan. 1, 1999.

Section 170-E:4

170-E:4 License Required; Prohibition Against Child Endangerment. –

I. No person shall establish, maintain, operate or conduct any child day care agency without a license or permit issued by the department under this subdivision. The requirements of this chapter applicable to licensed child day care agencies shall apply with equal force to any child day care agency required to be licensed under this chapter that is not so licensed.

II. No child care provider, whether licensed as a child day care agency, required to be licensed as a child day care agency under paragraph I, or exempted from licensing pursuant to RSA 170-E:3, I, shall care for a child in a manner which endangers the health, safety or welfare of the child. For purposes of this paragraph, endangerment shall mean the negligent violation of a duty of care or protection owed to such child or negligently inducing such child to engage in conduct which endangers his or her health or safety. Endangerment shall also include corporal punishment, as defined by the department. Licensees in violation of this paragraph shall be subject to the provisions of RSA 170-E:12. Persons exempted from licensing who are in violation of this paragraph shall be enjoined by a court of competent jurisdiction in accordance with the provisions of RSA 170-E:22 from caring for such child and may be enjoined, as the court may determine, from caring for other children. Persons operating a child day care agency without a license in violation of paragraph I who engage in negligent conduct that endangers the health, safety, or welfare of the children in their care shall be subject to the criminal penalties in RSA 170-E:21 and may be enjoined from caring for children in accordance with the provisions of RSA 170-E:22.

Source. 1990, 257:8, eff. Jan. 1, 1991. 2016, 161:2, 9, eff. June 3, 2016. 2023, 146:1, eff. Aug. 29, 2023.

Section 170-E:5

170-E:5 Assistance From Department. – The department, in applying the standards adopted by rule under this subdivision, shall offer consultation through employed staff or other qualified persons to assist applicants and licensees in meeting and maintaining minimum requirements for a license.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:5-a

170-E:5-a Child Care Resource and Referral Services. –

The department of health and human services shall develop and implement a plan, such plan to be fully funded by federal moneys for child care resource and referral services, which shall have the following responsibilities and duties to the public:

- I. Provide referrals to a variety of licensed child care options which meet the parent's or guardian's child care needs.
- II. Provide information on child care subsidies, including public and private program eligibility requirements and on tax credits and employer options.
- III. Provide counselling on selecting quality child care and early childhood issues.
- IV. Provide information on training opportunities for parents, guardians, and child care providers.
- V. Provide assistance to state human service agencies in seeking child care for such agencies' clients.
- VI. Provide information to parents, guardians and providers through workshops, provider groups, and library resources.
- VII. Provide assistance in seeking funding for local providers to develop and improve child care services.
- VIII. Provide start-up assistance to prospective center and family day care providers.
- IX. Provide information on child care supply and demand data.
- X. Provide technical assistance to employers and public and private sector decision-makers to support their efforts to expand and improve quality child care in New Hampshire.
- XI. Establish a resource library for parents, providers, employers and the public which includes information on child development, child care options, licensing, model programs, employer options, and other related topics.
- XII. Recruitment of, and technical assistance to, existing and prospective local child care providers to encourage the development of special needs child care, protective child care, subsidized child care, mildly ill child care and second-shift child care.

Source. 1991, 327:2, eff. Sept. 1, 1991.

Section 170-E:5-b**170-E:5-b Nonprofit Child Day Care Loan Program. –**

I. There is established the child day care loan program to provide low interest loans for nonprofit child day care providers. The primary purposes of these low interest loans include:

- (a) To construct wheelchair and handicap access ramps, van conversions, and bathroom renovations to accommodate children with disabilities.
 - (b) To pay for expansion or construction costs to serve more children under the state voucher program for low-income families to meet the expected increase of families receiving temporary assistance to needy families entering the work force.
 - (c) To renovate or upgrade current facilities to maintain or exceed code requirements.
 - (d) To renovate or expand facilities to serve priority populations, such as infants and toddlers, and families in need of night, weekend, drop-in, and mildly-ill care.
 - (e) To allow after-school programs to expand and purchase startup supplies, including storage, for school-age children.
 - (f) To enable child day care providers to secure a more stable environment and continuity of services through ownership or extended lease arrangements.
 - (g) To allow the purchase or lease of vans to transport children.
 - (h) To fund any other program-related costs as necessary.
- II. Criteria for consideration of loan applicants shall include the provider's commitment to enroll low-income children, children subsidized through the Child Care and Development Fund, and children with disabilities, or legally-operating providers who provide services to these populations. In addition, applicants shall:
- (a) Be fiscally sound as shown in a financial statement.
 - (b) Meet or exceed state and local operating and zoning regulations, including public health, fire, and safety requirements, or present a local exemption from regulations.
 - (c) Demonstrate a commitment to providing quality child day care through one or more of the following:
 - (1) Local child care resource and referral relationship.
 - (2) Family day care support group participation.

- (3) Enrollment in the United States Department of Agriculture food program (Child and Adult Food Program).
 - (4) Documentation of training in the Child Care Basics program or other training approved by the department of health and human services.
 - (d) Address a geographic or community need for projected child day care services.
- III. (a) The department of health and human services may, after consultation with the state child care advisory committee established in RSA 126-A:17, adopt rules pursuant to RSA 541-A, relative to the implementation and administration of the child day care loan program under this section.
- (b) The department shall have the responsibility for notifying providers of the availability of the loans and shall provide guidelines for loan application. Notification shall be made publicly, as well as through child care associations and the child care resource and referral network of New Hampshire.
- (c) The department of health and human services shall have the authority to designate a statewide, nonprofit community development financial institution as recipient of the funds, or a portion of the funds, to be used as a loan loss reserve or interest subsidy, or both.
- (d) The department may elect to contract with a statewide, nonprofit community development financial institution for provision of the following services:
- (1) To establish programmatic and credit criteria.
 - (2) To establish a mechanism for making lending decisions related to project feasibility.
 - (3) To maintain documentation on the borrower's organization, collateral, and on-going repayment ability.
 - (4) To collect and report the number of day care slots retained, created, or improved and the number of low-income families served through the child day care loan program or related activities.
- IV. The terms and conditions of the loan shall be contained in a binding agreement between the child day care provider and the lender and may include provisions for a lien on the property. Loans subsidized by an interest-rate subsidy shall carry a term of no more than 15 years and shall, to the extent possible and consistent with this section, be determined to match the useful life of the improvements funded by the loan. The department shall annually, on or before July 1, account for any subsidy or loss reserve expended, as well as for the repayment status of all loans made under this program.

Source. 1998, 303:2, eff. June 26, 1998.

Section 170-E:6

170-E:6 Applications; Compliance With Local Codes Required. – Any person who intends to operate a child day care agency as defined in RSA 170-E:2, IV, shall apply for a license to operate one or more types of child day care agencies. Application for a license to operate a child day care agency shall be made to the department in the manner and on forms prescribed by rules adopted by the commissioner pursuant to RSA 541-A. Such forms shall provide for the names, birth names, birth dates, and addresses of all persons having responsibility for care of or regular contact with children at the agency. The applicant shall obtain approvals in accordance with state and local requirements pertaining to health, safety and zoning, as applicable. School age programs located in currently operating public or private schools shall be exempt from the requirement to provide documentation of approval pertaining to fire, health, and zoning.

Source. 1990, 257:8. 1999, 326:1, eff. Jan. 1, 2000.

Section 170-E:6-a

170-E:6-a Registration of Day Care Providers Receiving State Funds. –

- I. Any person who provides child day care services and receives state funds for such services, but is not required to be licensed under RSA 170-E:4 as a child day care agency, shall register with the department of health and human services.
- II. The department of health and human services shall maintain a registry of all providers of child day care services who are not required to be licensed under RSA 170-E:4, but who receive state funds for their services.

Source. 1998, 256:1, eff. Jan. 1, 1999.

Section 170-E:6-b

170-E:6-b Insurance Disclosures. – Every person required to be licensed as a child day care agency under RSA 170-E:4 and every child day care provider required to be registered under RSA 170-E:6-a shall either maintain liability insurance or provide a disclosure to parents that the facility is uninsured.

Source. 1998, 256:1, eff. Jan. 1, 1999. 2016, 161:3, eff. June 3, 2016.

Section 170-E:7

170-E:7 State Registry and Criminal Records Check; Revocation of Registration and Withholding of State Funds. –

I. Child day care agencies and providers who are required to be licensed or registered according to the provisions of this chapter shall submit to the department the names, birth names, aliases, birth dates, and resident addresses during the preceding 5 years of all owners, household members, and directors prior to the issuance of a permit or license, and subsequent to licensure, for all individuals as required by the department in rules adopted under RSA 541-A.

I-a. The persons described in paragraph I shall complete a Federal Bureau of Investigation fingerprint check using the biometric identification system through a qualified law enforcement agency or an authorized employee of the division of state police, department of safety and authorize the release of the person's criminal records, if any, to the department. In the event that the first set of fingerprints is invalid due to insufficient pattern, a second set of fingerprints shall be necessary to complete the criminal history records check. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the department may, in lieu of the criminal history records check, accept police clearances from every city, town, or county where the person has lived during the past 5 years.

II. (a) For every name submitted on an application, in the registration process, and for each individual for whom information is required to be submitted pursuant to paragraph I, the department shall search for such persons against the New Hampshire sex offender and abuse and neglect registries, and the sex offender registries of each state where the individual resided in the past 5 years. The individual shall submit all forms and any required payments to the department to request from each state a check of the criminal history repository and abuse and neglect registry offices where the individual resided in the past 5 years.

(b) Under the authority of the Child Care and Development Block Grant Act of 2014, the division of state police shall conduct the criminal history records check pursuant to paragraph I-a, through its records and through the Federal Bureau of Investigation, to include a check of the National Sex Offender Registry file in the National Crime Information Center records. Upon completion of the background investigation, the division of state police shall release copies of the criminal conviction records to the department and shall indicate whether the individual is registered on the National Sex Offender Registry file in the National Crime Information Center records. The department shall maintain the confidentiality of all criminal history records information received.

(c) The costs of criminal history record and abuse and neglect registry checks shall be borne by the child day care agency or provider; provided, that the child day care agency or provider may require an applicant to pay the actual costs of the criminal history check and abuse and neglect registry checks of the employee.

(d) Any individual who refuses to consent to the criminal background check or knowingly makes a materially false statement in connection with such criminal background checks shall be ineligible for employment.

II-a. An individual shall not be required to submit a request under paragraph I-a if:

(a) In the previous 5 years, the individual submitted a state criminal records release form and fingerprints and completed a criminal records check under this section;

(b) The individual is currently employed by a child care provider within the state, or has been separated from employment from a child care provider within the state for a period of not more than 180 consecutive days; and

(c) The department made a determination that when the individual completed the criminal records check within the previous 5 years as described in this section, the individual was eligible for employment as provided in paragraphs III and IV.

III. The department shall make a determination regarding the individual's eligibility for employment no later than 45 days from submission of all required information as described in paragraphs I and I-a. If any individual whose name has been submitted for a check under this section is registered or required to be registered on a state

sex offender registry or repository, or the National Sex Offender Registry, or has been convicted of a felony consisting of murder, child abuse or neglect, an offense involving child sexual abuse images, trafficking, spousal abuse, a crime involving rape or sexual assault, kidnapping, arson, physical assault or battery, or a drug-related offense committed during the previous 5 years, or any other violent or sexually-related misdemeanor against a child, including child abuse, child endangerment, sexual assault, or a misdemeanor involving child sexual abuse images, or of a crime which shows that the person might be reasonably expected to pose a threat to a child, such as a violent crime or a sexually-related crime against an adult, the department shall:

- (a) If the individual is the applicant or owner, revoke or deny the license or permit, or withhold state funds if the child day care provider is not required to be licensed.
- (b) For any other individual, inform the child day care agency or registered provider that the individual is ineligible for employment and give the agency or registered provider an opportunity to take immediate corrective action to remove the individual from the agency, and, in conjunction with the department, to develop a corrective action plan, approved by the department, which shall ensure that the individual will not be on the premises of the child day care program and shall have no contact with children enrolled in the child day care program.
- (c) Suspend, deny, or revoke the license or permit, and withhold state funding, if the child day care program refuses to take corrective action as indicated in subparagraph (b), or subsequently fails to comply with the corrective action plan approved by the department.
- (d) Upon a finding of criminal activity as described in this paragraph, withhold state funding to registered child day care providers that are exempt from the licensing requirements of RSA 170-E:4 if the provider refuses to take corrective action as indicated in subparagraph (b), or fails to comply with the corrective action plan approved by the department.

IV. If any individual whose name has been submitted for this check has been convicted of a felony offense deemed directly or indirectly harmful to children in child day care, crimes against minors or adults, except crimes as provided in paragraph III, or is the subject of a founded complaint of child abuse or neglect, the department may deny, revoke, or suspend a license, permit, or registration pending the development and implementation of a corrective action plan approved by the department. In addition, the department may, upon a finding of criminal activity or a founded complaint of child abuse or neglect as described in this paragraph, withhold state funding to registered child day care providers that are exempt from the licensing requirements of RSA 170-E:4 pending the development and implementation of a corrective action plan approved by the department. The department shall conduct an investigation in accordance with rules adopted under this subdivision to determine whether the individual poses a present threat to the safety of children. The investigation shall include an opportunity for the individual to present evidence on his or her behalf to show that the individual does not pose a threat to the safety of children.

IV-a. After the department has made a determination that an individual required to complete a criminal record check under paragraph I does not pose a present threat to the safety of children, the department may issue a child care employment eligibility card, which shall be valid for 5 years provided that no disqualifying convictions are subsequently submitted, and the individual remains eligible as described in subparagraph II-a(b). The department may require additional background checks to be completed based upon reliable information that the individual received one or more additional convictions subsequent to the previous criminal record check submission. If the department receives confirmation from a law enforcement agency that an individual has been charged with a crime as described in paragraph III or IV, the department shall suspend the individual's child care employment eligibility card and inform the child day care agency or registered provider that the individual is ineligible for employment and give the agency or registered provider an opportunity to take immediate corrective action to remove the individual from the agency, and, in conjunction with the department, to develop a corrective action plan, approved by the department, which shall ensure that the individual shall not be on the premises of the child day care program and shall have no contact with children enrolled in the child day care program while charges are pending.

IV-b. Child day care providers who are required to be licensed or registered according to the provisions of this chapter shall, for every individual submitted for a check under paragraph I who is not required to complete the criminal background check pursuant to paragraph II-a, have on file a signed statement from the individual stating since the day the individual's background check was completed, that he or she:

- (a) Has not been convicted of any crimes; and
- (b) Has not had a finding by the department or any administrative agency in this or any other state for abuse,

neglect, or exploitation.

IV-c. Child day care agencies or providers, whether registered or licensed, and individuals as described in paragraph I, shall complete the background check process described in this section no later than 5 years from the previous background check submission.

IV-d. The fee for a child care employment eligibility card issued under paragraph IV-a shall be \$25 and the card shall be valid for 5 years from the date of issuance, or a prorated amount of \$5 per year from the most recently completed criminal background check. A replacement card may be requested for a \$10 fee.

V. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the confidentiality of information collected under this section and to the release, if any, of such information.

Source. 1990, 257:8. 1994, 212:2. 1995, 310:134. 1998, 147:2, 3; 256:2; 390:1. 1999, 326:2. 2000, 157:1. 2006, 289:8. 2009, 144:255. 2011, 100:1, eff. July 26, 2011. 2016, 158:1-5, eff. Oct. 1, 2016. 2017, 91:3, eff. Aug. 6, 2017. 2018, 318:9, 10, eff. Aug. 24, 2018. 2019, 313:1, eff. July 1, 2019. 2022, 272:58, eff. July 1, 2022.

Section 170-E:7-a

170-E:7-a Child Care Licensing Fund Established. – There is hereby established a nonlapsing fund to be known as the child care licensing fund, which shall be administered by the commissioner of the department of health and human services and which shall be kept distinct and separate from all other funds. All fees for state registry and criminal records checks collected by the department pursuant to RSA 170-E:7 and RSA 170-E:29-a shall be deposited in the fund and all moneys in the fund shall be continually appropriated to the department of health and human services for the purpose of paying costs associated with administering the provisions of this chapter.

Source. 2019, 313:3, eff. July 1, 2019.

Section 170-E:8

170-E:8 Issuance. –

I. Licenses shall be issued in such form and manner as prescribed by rules adopted by the commissioner under RSA 541-A and shall be valid for 3 years from the date issued unless revoked or suspended by the department or voluntarily surrendered by the licensee. Licenses shall not be transferable and shall be surrendered in the event of change of ownership.

II. The department may provide dual licensure to operate a child day care agency and a family foster care agency. Such licensure shall be granted only upon application and shall be contingent upon a determination that the standards of both programs have been met without compromising any licensing requirements.

III. The department shall make monitoring visits a minimum of once yearly during each licensing period. At least one such visit during the licensing period shall be unannounced. Clear and comprehensive records shall be maintained by the department on each licensed agency showing the dates and findings of each such visit. Such records shall be made available to the child day care agency. If the child day care agency is found not to be in compliance with the statute or with rules adopted by the commissioner, a corrective action plan shall be submitted to the department. Failure to submit an acceptable plan shall result in license suspension, denial, or revocation.

IV. The department may, in lieu of a license, issue a permit to a newly established facility for child day care for the purpose of demonstrating compliance with this subdivision and the rules adopted under it during actual operation. At the end of the permit period, the department shall renew the permit for good cause, issue a license for the balance of the license period, or deny the license.

Source. 1990, 257:8. 1999, 326:3, eff. Jan. 1, 2000.

Section 170-E:8-a

170-E:8-a Retaliation Prohibited. – The department shall not retaliate against an applicant, licensee, or permittee for any reason. Any applicant, licensee, or permittee who believes that the department's actions regarding licensure or permit status, or the findings of a monitoring visit, were retaliatory in nature may submit a complaint to the commissioner. The department shall investigate the complaint in order to take appropriate action against any department employee having found to be in violation of this section.

Source. 2022, 287:3, eff. Aug. 30, 2022.

Section 170-E:9

170-E:9 License Renewal. –

I. A licensed child day care agency shall file for renewal of its license or permit no later than 3 months prior to the expiration date of the license or permit on forms prescribed by rules adopted by the commissioner under RSA 541-A. An application for the renewal of a license shall not be considered complete until the applicant submits any additional information required by the department, which shall include a corrective action plan if an inspection conducted following receipt of the application for renewal finds the agency out of compliance with a provision or provisions of the applicable licensing rules.

II. The department shall reexamine every child day care agency for renewal of its license or permit, including examination of the premises, program and such records of the agency as the department considers necessary to determine that minimum standards for licensing continue to be met. If the department is satisfied that the agency continues to comply with the minimum standards established by rule for that category of care, which includes the receipt of corrective action plans as defined under RSA 170-E:2 and as established in rule, it shall renew the license to operate.

III. The commissioner may designate an agency or person to carry out the reexamination specified in paragraph II.

IV. If the department is unable to examine the premises and program due to the program not currently operating after the renewal application is received, the department may renew the license to operate provided the program has submitted the local health and safety approvals required under RSA 170-E:6. The department shall examine the premises and program operations no later than 30 days after the program reopens.

Source. 1990, 257:8, eff. Jan. 1, 1991. 2023, 209:2, 3, eff. Oct. 3, 2023.

Section 170-E:10

170-E:10 Record of Licenses and Investigatory and Monitoring Visits. –

I. The department shall keep in a central depository records of licenses issued under this subdivision and all investigatory and monitoring reports, and final decisions relative to licensure that have been made relative to licensees. When a license is issued to a child day care agency, the department shall give notice to the health officer and fire department of the city or town in which the licensee is located stating the granting of such license and its terms. A like notice shall be given of any suspension or revocation of such license.

II. Information submitted in the application process shall be private, confidential, and not available for review. However, the license itself, the findings of investigatory and monitoring visits, and final decisions relative to licensure of the child day care agency shall be considered public information, posted on the department's website, and available for review by members of the public. The findings of investigatory and monitoring visits and final decisions relative to licensure shall be posted on the department's website not less than 21 business days from the date of the finding or decision, and shall be available on the website for a period of 3 years.

III. At least 15 business days before posting the results or findings of an investigatory visit, monitoring visit, or a final decision relative to licensure on the department's website, the department shall notify the child day care agency of its findings and the date on which the information shall be posted on the department's website. The department may provide such notice by email or, if the child day care agency has not provided an email address, by United States mail. If the child day care agency submits a response prior to the date of posting, the child day

care agency's response shall also be posted on the department's website.

Source. 1990, 257:8, eff. Jan. 1, 1991. 2014, 128:1, eff. Aug. 15, 2014. 2022, 202:1, eff. Aug. 16, 2022; 287:1, eff. Aug. 30, 2022.

Section 170-E:10-a

170-E:10-a Informal Dispute Resolution. –

I. The department shall offer an opportunity for informal dispute resolution to any child day care agency that disagrees with the results or findings of a monitoring visit. The child day care agency shall submit a written request for informal dispute resolution no later than 14 days from the date the findings were issued by the department. Within 30 days of receipt of a request for informal dispute resolution and receipt of information from the child day care agency, the department shall review the evidence presented and provide written notice of its decision to the child day care agency.

II. Informal dispute resolution shall not be available to any child day care agency against which the department has initiated action to suspend, revoke, deny, or refuse to renew a license or permit under this chapter.

Source. 2014, 128:2, eff. Aug. 15, 2014.

Section 170-E:11

170-E:11 Rulemaking. –

The commissioner shall adopt rules, under RSA 541-A, relative to:

I. Minimum standards for licensing which apply to the various types of child day care agencies. The department shall seek the advice and assistance of persons representative of the various types of child day care agencies in adopting rules. The standards prescribed shall include:

- (a) The operation and conduct of the agency and the responsibility it assumes for child day care.
- (b) The character, qualifications, mental and physical ability and competence of the applicant as well as all persons directly responsible for the care and welfare of children served, or of persons who will be providing necessary care for children and maintaining prescribed standards, or of persons who will do both.
- (c) The number of individuals or staff required to insure adequate supervision and care of the children received.
- (d) The appropriateness, safety, environmental health and general adequacy of the premises, including maintenance of adequate fire prevention and health standards conforming to state laws and municipal codes, to provide for the physical comfort, health and care of children received; provided that, health and safety requirements with regard to school-age children shall be no more stringent than those required for the public schools.
- (e) Provisions for food, clothing, educational opportunities, program, equipment and individual supplies to assure the health and the physical and mental development of children served.
- (f) Provisions to safeguard the legal rights of children served.
- (g) Maintenance of records pertaining to the admission, progress, health and discharge of children.
- (h) Filing of reports with the department, including format, frequency and content of such reports.
- (i) Discipline of children.
- (j) Protection and fostering of the particular religious faith of the children served, where applicable.
- (k) Provisions to provide for a report of any new staff, paid or unpaid, or resident of the facility which shall include the name, birth name, date of birth and previous addresses of the person, or other information as required by rules of the department.
- (l) The process and forms for application and renewal of licenses.
- (m) The process and forms for requesting waivers to minimum standards and for placing conditions on licenses.
- (n) The following qualification for certification as an associate teacher: a minimum of 1,000 hours of supervised child care experience in a licensed child care program and 30 hours of training in child growth and development, the latter of which may be documented life experience. Documented life experience in lieu of training in child growth and development shall include 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.

II. The confidentiality of information collected pursuant to RSA 170-E:7, 170-E:10, 170-E:17, III and 170-E:19.

III. The procedures for the appeals processes provided by RSA 170-E:13, II and III.

IV. Policy and procedures concerning monitoring visits, investigation of complaints and disciplinary proceedings, including corrective action plans, against licensees.

V. Policy and procedures concerning suspension or revocation of licenses.

VI. A schedule of administrative fines which may be imposed under RSA 170-E:21-a for a violation of this chapter or the rules adopted pursuant to it.

VII. Procedures for notice and hearing prior to the imposition of an administrative fine imposed under RSA 170-E:21-a.

VIII. Administration and enforcement of the registration process and maintenance of the registry established under RSA 170-E:6-a.

Source. 1990, 257:8. 1991, 355:45. 1998, 256:3, 4, eff. Jan. 1, 1999. 2021, 205:2, Pt. XI, Sec. 1, eff. Oct. 9, 2021.

Section 170-E:12

170-E:12 License or Permit Suspension, Revocation, or Denial. –

The department may suspend, revoke, deny or refuse to renew any license or permit if the licensee or permit holder:

I. Neglects or abuses children in his care;

II. Does not comply with this subdivision or the rules adopted under this subdivision relative to the supervision of children in his care;

III. Violates any provision of this subdivision, or is unable to meet and maintain standards adopted by the commissioner;

IV. Substantially or repeatedly violates any provisions of the license or permit issued;

V. Furnishes or makes any misleading or any false statement or report to the department;

VI. Refuses or fails to submit any reports or to make available to the department any records required by it in making an investigation of the facility for licensing purposes;

VII. Refuses or fails to submit to an investigation or to the required visits by the department;

VIII. Refuses or fails to admit authorized representatives of the department at any time child care is being provided for the purpose of investigation or visit;

IX. Fails to provide, maintain, equip and keep in safe and sanitary condition premises established or used for child day care as required under standards prescribed by rules adopted by the commissioner under RSA 541-A or as otherwise required by any law, rule, ordinance, or term of the license applicable to the location of such facility;

X. Retaliates against an employee who in good faith reports a suspected violation of the provisions of this subdivision and rules adopted under it;

XI. Meets the conditions specified in RSA 170-E:7, III;

XII. Fails to comply with the corrective action plan submitted by the child day care agency and approved by the department;

XIII. Loses health, safety or zoning approval ; or

XIV. Fails to comply with applicable public health laws and regulations concerning lead.

Source. 1990, 257:8. 1999, 326:4, eff. Jan. 1, 2000. 2018, 4:9, eff. Apr. 9, 2018.

Section 170-E:13

170-E:13 Notice and Hearing. –

I. Should the department determine to suspend, revoke, deny, or refuse to renew a license or permit, it shall send to the applicant, licensee or permittee, by registered mail, an order setting forth the particular reasons for the determination. The suspension, revocation or denial shall become final 10 days after receipt of such order unless the applicant, licensee or permittee requests a hearing under paragraph II of this section.

II. Any applicant, licensee or permittee aggrieved by a decision of the department to suspend, revoke, deny or refuse to renew a license or permit may appeal to the commissioner. For purposes of carrying out the provisions of this section, the commissioner may, in accordance with the rules adopted by the department of personnel pursuant to RSA 541-A, appoint a hearings officer or officers, as necessary, to preside over such hearings. A hearings officer may affirm, deny or modify the decision of the department. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to procedures for the appeal process provided under this paragraph.

III. When the department decides to suspend, revoke, deny, or refuse to renew a license or permit, and it expressly finds that the continued operation of a child day care agency poses a present and credible threat to the health or safety of children served by the agency, the department shall include in its order issued under paragraph I an order of closure directing that the operation of the agency terminate immediately or on the date specified. Unless the department has ordered the agency to terminate immediately, the agency shall be permitted to operate during the pendency of any proceeding for the review of the decision of the department. Notwithstanding the above, the agency shall retain the right to seek injunctive relief in accordance with RSA 170-E:22.

IV. Rehearings and appeals from a decision of the hearings officer shall be in accordance with rules adopted under RSA 541-A.

Source. 1990, 257:8, eff. Jan. 1, 1991. 2022, 287:2, eff. Jan. 1, 2023.

Section 170-E:14

170-E:14 Appeal. – Any person aggrieved by any decision rendered after a rehearing held or an appeal brought under RSA 170-E:13, IV may appeal the decision to the superior court.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:15

170-E:15 Operation Without a License. – Whenever the department is advised, or has reason to believe, that any person is operating a child day care agency without a license or permit, or in violation of any of the provisions of this subdivision, it may make an investigation to ascertain the facts. If it finds that such person is operating or has operated without a license or permit, or in violation of any of the provisions of this subdivision, the department shall issue by certified mail a notice informing such person of the violation and requesting that it cease operating within 24 hours of the date notice is received. The department may report the results of its investigation to the attorney general or to the appropriate county attorney for prosecution.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:16

170-E:16 Advertising. – A child day care agency licensed or operating under a permit issued by the department may publish advertisements of the services for which it is specifically licensed or issued a permit under this subdivision. No person who is required to obtain a license or permit under this subdivision may advertise or cause to be published an advertisement soliciting a child for child day care unless the person has obtained the requisite license or permit. A child care provider that is legally operating as a license exempt provider under RSA 170-E:3 shall not hold itself out in any way or advertise that it is licensed by the department, including using forms developed by the department for use by licensed child day care agencies.

Source. 1990, 257:8, eff. Jan. 1, 1991. 2016, 161:7, eff. June 3, 2016.

Section 170-E:17

170-E:17 Investigation. –

I. If the department has reason to believe that state or federal funds solicited and received by a corporation for

conduct of a child day care agency are not being used for the purpose for which the funds were awarded, or are being fraudulently used by the corporation or its members, or purportedly are being used for a facility or agency which is actually defunct, or are being used by or for an agency which no longer carries a valid license or permit, the department shall report these facts to the attorney general and request an investigation of the corporation to determine if the corporation should be dissolved or whether other action should be taken against the corporation or its members.

II. The department shall conduct an investigation of any complaint of violations of any licensing or operating standards against permitted or licensed child day care agencies. All investigations shall be conducted at reasonable times, with the cooperation of other state or municipal authorities, if required, and may include unannounced visits. The commissioner shall request an annual narrative summary of complaints received by the department.

III. Records compiled during an investigation shall be confidential and shall not be made public by the department.

Source. 1990, 257:8. 1995, 310:135, eff. Nov. 1, 1995.

Section 170-E:18

170-E:18 Oaths; Subpoenas. –

I. The department shall have the power to administer oaths in any disciplinary proceedings.

II. Upon request of the commissioner, the attorney general shall be authorized, for good cause shown, to subpoena witnesses and to compel, by subpoena duces tecum, the production of papers and records in any disciplinary proceedings under this subdivision.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:19

170-E:19 Records. – Every child day care agency shall keep and maintain such records as the department shall prescribe by rule pertaining to the admission, progress, health and discharge of children under the care of the child day care agency and shall report relative to such matters to the department whenever called for, upon forms prescribed by rule. All records regarding children and all facts learned about children and their relatives shall be kept confidential both by the child day care agency and by the department.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:20

170-E:20 Notice of Death. – If any child under the control of any licensed child day care agency dies, the licensee shall give notice of such event to the department within 24 hours.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:21

170-E:21 Penalty. –

I. Any natural person shall be guilty of a class A misdemeanor, and any other person shall be guilty of a class B felony, who conducts, operates, or acts as a child day care agency without a license or permit to do so in violation of RSA 170-E:4, I.

II. Any person shall be guilty of a misdemeanor who:

(a) Makes materially false statements to obtain or retain a license or permit.

(b) Fails to keep the records and make the reports required under this subdivision.

(c) Is required to obtain a license or permit under this subdivision and who advertises or causes to be published

an advertisement soliciting a child for child day care which is not authorized by any license or permit held.

(d) Violates any other provision of this subdivision or any rule adopted under RSA 541-A by the commissioner for the enforcement of this subdivision.

(e) Holds themselves out in any way or advertises that they are licensed if they do not hold a license issued by the department.

II-a. Any person who operates a licensed or unlicensed child day care agency in violation of RSA 170-E:4, and, as a direct result of that persons' negligent operation, a child suffers permanent impairment to brain function, permanent paralysis, or other permanent debilitating injury, or death, shall be guilty of a class B felony.

III. Each day a violation continues to exist shall constitute a separate offense.

Source. 1990, 257:8. 2006, 76:2, eff. July 1, 2006. 2016, 161:4, 5, 8, eff. June 3, 2016.

Section 170-E:21-a

170-E:21-a Administrative Fines. – The commissioner of the department of health and human services, after notice and hearing, pursuant to rules adopted under RSA 541-A, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of this chapter or rules adopted under this chapter. Rehearings and appeals from a decision of the commissioner shall be in accordance with RSA 541. Any administrative fine imposed under this section shall not preclude the imposition of further penalties or administrative actions under this chapter. The commissioner shall adopt rules in accordance with RSA 541-A relative to administrative fines which shall be scaled to reflect the scope and severity of the violation. The sums obtained from the levying of administrative fines under this chapter shall be forwarded to the state treasurer to be deposited into the general fund.

Source. 1991, 355:46, eff. July 1, 1991.

Section 170-E:22

170-E:22 Injunctive Relief. – Any person may institute in any court of competent jurisdiction an action to prevent, restrain, correct or abate any violation of this subdivision or of the rules adopted under RSA 170-E:11; and the court shall adjudge relief, by way of injunction, which may be mandatory or otherwise as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purpose of this subdivision and the rules adopted under it. In a prosecution under this subdivision, a defendant who relies upon the relationship of any child to himself has the burden of proof as to that relationship.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:23

170-E:23 Confidentiality and Investigations. – State registry files and all other related confidential information kept by any state agency may be used by the department for the purpose of investigation and licensure. The department shall strictly observe the confidentiality requirements of the agency from which it receives information.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:24

170-E:24 Purpose. – The purpose of this subdivision is to provide for the licensing of residential care and child-placing agencies.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:25

170-E:25 Definitions. –

In this subdivision:

I. "Child" means any person under 21 years of age, or up to the age of a child with a disability as defined in RSA 186-C:2, I and is receiving special education or special education and related services as identified by the child's school district.

II. "Child care agency" means any person, corporation, partnership, voluntary association or other organization either established for profit or otherwise, who regularly receives for care one or more children, unrelated to the operator of the agency, apart from the parents, in any facility as defined in this subdivision and maintained for the care of children. The types of child care agencies are defined as follows:

(a) "Child care institution" means a child care agency where more than 12 children are received and maintained for 24-hour care for the purpose of providing them with care or training, or both. The term "child care institution" shall not include:

(1) Any state operated institution for child care or juvenile detention established by law.

(2) Any institution, home, place, or facility operating under a license pursuant to RSA 151:2.

(3) Any boarding school in which children are primarily taught branches of education corresponding to those taught in public elementary schools or high schools, or both, and which operates on a regular academic school year basis, and which is approved by the department of education.

(4) Any licensed recreation camp.

(b)(1) "Foster family home" means child care in a residence in which family care and training are provided on a regular basis for no more than 6 unrelated children, unless all the children are of common parentage. The maximum of 6 children includes the children living in the home and children received for child care who are related to the residents.

(2) If the limit of 6 children under subparagraph (a)(1) is reached, the foster family is willing and able to take a sibling or a group of siblings of a child already in their care, and the department has concluded that the foster family is able to provide for the safety, permanency, and well-being of the child or children, the department may, notwithstanding the limitations of subparagraph (a)(1), place the sibling or group of siblings in the foster family home.

(c) "Group home" means a child care agency which regularly provides specialized care for at least 5 but no more than 12 children who can benefit from residential living either on a short-term or long-term basis.

(d) "Independent living home" means a child care agency which regularly provides specialized services in adult living preparation in an experiential residential setting for persons 16 years of age or older who have a legal relationship with the department of health and human services and who can benefit from independent living training.

(e) "Specialized care" means a child care agency which regularly provides general care for children who are diagnosed as mentally ill, intellectually disabled, or physically disabled and who are determined to be in need of special mental treatment or nursing care, or both.

(f) "Homeless youth program" means a program, including any housing facilities utilized by such program, which receives any child for the purpose of providing services to facilitate independent living including all of the following program components: individual assessment, referral, housing, and case management. Such services may be provided directly by the agency or through one or more contracts for services.

(g)(1) "Kinship care home" means a type of foster home in which an individual or individuals are licensed to provide care exclusively to kin. There shall be a maximum of 6 children including the children living in the home and children received for child care who are related to the residents.

(2) Notwithstanding the limit of 6 children under subparagraph (e)(1), if the kinship care family is willing and able to take a sibling or a group of siblings of a child already in their care, and the department has concluded that the kinship care family is able to provide for the safety, permanency, and well-being of the child or children, the department may place the sibling or group of siblings in the kinship care home.

III. "Child-placing agency" means any firm, corporation or association which:

(a) Receives any child for the purpose of providing services related to arranging for the placement of children in a foster family home, group home, or child care institution; or

(b) Receives any child for the purpose of providing services related to arranging for the placement of children in adoption.

IV. "Commissioner" means the commissioner of the department of health and human services.

V. "Corrective action plan" means a written proposal setting forth the procedures by which a child care agency, or child-placing agency will come into compliance with the standards set by rule adopted by the commissioner under RSA 541-A and subject to the approval of the department. The proposal shall include the time needed to assure compliance and the steps proposed by the agency to reach compliance.

VI. "Department" means the department of health and human services.

VII. "Guardian" means the guardian of the person of a minor, as defined in RSA 463.

VIII. "Kin" means a child or children who for which there is a connection or history between a child or their parents and another responsible adult, including but not limited to related adults.

IX. "License" means a complete license issued to an operator of a child care agency or child-placing agency, authorizing the licensee to operate in accordance with the term and conditions of the license, this subdivision, and the rules of the department.

X. "Permit" means an issuance to an operator of a child care agency or child-placing agency which shall not be renewable except for good cause shown and which may be granted for a period not exceeding 6 months to agencies whose services the department finds are needed, but which are temporarily unable to conform to the qualification for a license.

XI. "Regularly" or "on a regular basis" means supervision and care up to and including 7 days a week service, whether continuous or not, for all types of child care subject to the provisions of this subdivision.

XII. "Related" means any of the following relationships by blood, marriage, or adoption: parent, grandparent, brother, sister, stepparent, stepgrandparent, stepbrother, stepsister, uncle, aunt, niece, nephew, first cousin or second cousin.

XIII. "Respite care" means substitute care provided by a person or agency which is licensed as a child care or child-placing agency.

Source. 1990, 257:8. 1992, 11:3. 1994, 212:2. 1995, 310:181. 2001, 188:1. 2006, 92:1. 2008, 52:12, eff. July 11, 2008. 2022, 272:15, 16, eff. June 24, 2022. 2023, 209:4, eff. Oct. 3, 2023.

Section 170-E:26

170-E:26 Exemptions; Child Endangerment Prohibited. –

I. The definitions in RSA 170-E:25, II and III shall not apply to the following:

(a) Families housing exchange students or up to 4 children in summer exchange programs.

(b) Nonresident families visiting the state for purposes of a vacation who have in their care foster children from their home state and have written approval of the out-of-state agency which supervises the foster children.

II. Families exempted from licensing pursuant to this section shall be subject to the provisions of RSA 170-E:27, II.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:27

170-E:27 License Required; Prohibition Against Child Endangerment. –

I. No person may establish, maintain, operate or conduct any agency for child care or for child-placing without a license or permit issued by the department under this subdivision.

II. No person, whether licensed as a child care agency or institution or child-placing agency, or exempted from licensing pursuant to RSA 170-E:26, I, shall care for a child in a manner which endangers the health, safety or welfare of the child. For purposes of this paragraph, endangerment shall mean the negligent violation of a duty of care or protection owed to such child or negligently inducing such child to engage in conduct which endangers his health or safety. Licensees in violation of this paragraph shall be subject to the provisions of RSA 170-E:35. Persons exempted from licensing who are in violation of this paragraph shall be enjoined by a court of competent jurisdiction in accordance with the provisions of RSA 170-E:46 from caring for such child and may be enjoined, as the court may determine, from caring for other children. The court in its order for injunctive relief shall provide for removal and placement of the child who is the subject of the order with an organization

licensed pursuant to this subdivision.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:27-a

170-E:27-a Homeless Youth Programs; Special Provisions. –

Any child care agency which receives children for the purpose of providing a homeless youth program, as defined in RSA 170-E:25, II(d), shall be subject to the following provisions:

I. When a child 16 or 17 years of age contacts a homeless youth program requesting emergency shelter or homeless services, the program shall:

(a) Assess the child's essential needs, physical and mental health condition, and the circumstances that led the child to seek services.

(b) Upon completion of the assessment, but in no case later than 72 hours from the child's initial request for services, attempt to notify the child's parent or legal guardian that such child is present at the agency's facility. If compelling circumstances become evident during assessment which justify not notifying the parent or legal guardian, the program shall instead notify the department according to RSA 169-C:29. In this paragraph, the term "compelling circumstances" means circumstances which indicate that notifying the parent or legal guardian would subject the child to risk of abuse or neglect as defined in RSA 169-C:3.

(c) Notify the department no later than 30 days after the child's initial request for services if the program is unable to make contact with either of the child's parents or the legal guardian after reasonable attempts to do so.

II. Nothing in this section shall alter the legal relationship between parent or legal guardian and child, and in the absence of a court order directing otherwise, the program shall release the child to the custody of his or her parent or legal guardian upon request by the parent or guardian.

III. If the child is discharged from the program or voluntarily terminates participation in the program, the program shall immediately notify the parents or legal guardian; or the department if the parent or legal guardian has never consented to the child's placement in the program.

IV. A parent or legal guardian who consents in writing to the child's participation in a licensed homeless youth program shall not be deemed neglectful under RSA 169-C:3, XIX.

V. The agency may charge the child a reasonable fee for the services provided the child is working and/or has other regular income and such fee is within his or her ability to pay.

Source. 2001, 188:2, eff. Sept. 3, 2001.

Section 170-E:27-b

170-E:27-b Immunization Requirements for Foster Family Homes. – There shall be no vaccination or immunization requirements required of any children residing in a foster home that exceed vaccination or immunization requirements under RSA 141-C:20-a, either in type of vaccination or quantity of doses.

Source. 2023, 193:1, eff. Aug. 4, 2023.

Section 170-E:28

170-E:28 Applications; Compliance With State and Local Codes Required. –

I. Any entity which intends to receive children, or arranges for child care or child placement of one or more children unrelated to the operator, shall apply for a license to operate one or more of the types of facilities for child care. Application for a license to operate a child care agency or institution or a child-placing agency shall be made to the department in the manner and on forms prescribed by rules adopted by the commissioner under RSA 541-A. Such forms shall provide for the birth names, birth dates and addresses of all persons having responsibility for care or placement of children or regular contact with children at the institution or agency. The agency or institution shall obtain approvals in accordance with state and local requirements pertaining to health, safety and zoning as applicable; and, if the department is satisfied that the person, institution, agency, or program

conforms to standards prescribed for the type of child care or child placement for which application is made, the department shall issue a license in proper form designating on that license the type of child care or child placement, the name and address of the person or institution, the duration of the license and, except for child-placing agencies, the age range, the gender, and the number of children to be served.

II. Either the state fire marshal or the local fire department shall review compliance of the foster family home with the state fire code. In conducting the review, the state fire marshal or local fire department shall apply the appropriate single family or multi-unit dwelling provisions of the state fire code. A foster family home shall be exempt from local fire regulations and ordinances, provided that the home complies with the requirements of the state fire code.

Source. 1990, 257:8. 2001, 77:1, eff. Aug. 18, 2001. 2019, 70:1, eff. Aug. 6, 2019.

Section 170-E:29

170-E:29 State Registry and Criminal Records Check for Foster Family Homes, Institutions, and Child-Placing Agencies. –

I. Foster family homes, institutions, and child-placing agencies shall, within 30 days of adding new staff members responsible for care of or in regular contact with children, submit the names, birth dates, and addresses of such staff members to the department.

II. Except in the case of an initial application for a foster family home, the department shall, for every name submitted on the application and for each new staff member, or at each renewal, review the names, birth names, birth dates, and current and previous addresses of such persons against the state registry of founded abuse and neglect reports. The department shall submit the names, birth names, birth dates, and addresses to the state police files to obtain information about criminal convictions.

II-a. In the case of an initial application for a foster family home, the department shall conduct a background check of the prospective foster parents and any other adult living in the home. The background check shall consist of a fingerprint-based criminal record check of national crime information databases for the prospective foster parents and any other adults living in the home, as well as a central registry check for the prospective foster parents and any other adult living in the home.

(a) For the criminal record check required under this paragraph, the department shall submit the prospective foster parents' fingerprints and the fingerprints of any other adults living in the home to the department of safety, division of state police, for forwarding to the Federal Bureau of Investigation. Upon completion of the criminal record check, the division of state police shall forward the results to the department.

(b) The central registry check shall include a check of the department's central registry of founded reports of child abuse and neglect under RSA 169-C:35 and shall include a check of the child abuse and neglect registries in any other state in which the prospective foster parents or other adult living in the home has resided in the preceding 5 years. Information obtained from another state pursuant to this subparagraph shall be used only for the purposes of conducting the background checks.

III. If any individual whose name has been submitted for a check under this section has been convicted of a violent or sexually-related crime against a child, or of a crime which shows that the person might be reasonably expected to pose a threat to a child, such as a violent crime or a sexually-related crime against an adult, the department shall deny the license, pending the development and implementation of a corrective action plan approved by the department.

IV. If any individual whose name has been submitted for this check has been convicted of crimes against minors or adults, except crimes as provided in paragraph III, or is the subject of a founded complaint of child abuse or neglect, the department may deny the license or permit, revoke a license, or suspend a license pending the development and implementation of a corrective action plan approved by the department. The department shall conduct an investigation in accordance with rules adopted under this subdivision to determine whether the individual poses a present threat to the safety of children. The investigation shall include an opportunity for the individual to present evidence on his behalf to show that he does not pose a threat to the safety of children.

V. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the confidentiality of information collected under this section and to the release, if any, of such information.

VI. A kinship care home shall be considered a foster family home for purposes of this section.

Source. 1990, 257:8. 1994, 212:2. 1995, 310:136. 2007, 325:4, 5. 2013, 216:1, eff. Sept. 8, 2013. 2017, 136:2, eff. June 16, 2017. 2022, 272:17, eff. June 24, 2022.

Section 170-E:29-a

170-E:29-a State Registry and Criminal Records Check for Child Care Institutions and Child Care Agencies. –

I. Child care institutions and child care agencies, with the exception of foster family homes, that are required to be licensed according to the provisions of this chapter shall submit to the department the names, birth names, aliases, birth dates, and resident addresses during the previous 5 years of all owners, household members, and program directors prior to the issuance of a permit or license and prior to making a final offer of employment, for all individuals as required by the department in rules adopted under RSA 541-A.

I-a. The persons described in paragraph I shall complete a Federal Bureau of Investigation fingerprint check using the biometric identification system through a qualified law enforcement agency or an authorized employee of the division of state police, department of safety and authorize the release of the person's criminal records, if any, to the department. In the event that the first set of fingerprints is invalid due to insufficient pattern, a second set of fingerprints shall be necessary to complete the criminal history records check. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the department may, in lieu of the criminal history records check, accept police clearances from every city, town, or county where the person has lived during the past 5 years.

II. (a) For every name submitted on an application and for each person for whom information is required to be submitted pursuant to paragraph I, the department shall search for such persons against the New Hampshire sex offender and abuse and neglect registries, and the sex offender and abuse and neglect registries of each state where the individual resided in the past 5 years. The individual shall submit all forms and any required payments to the department to request from each state a check of the abuse and neglect registry records where the individual resided in the past 5 years.

(b) Under the authority of the Child Care and Development Block Grant Act of 2014, the division of state police shall conduct the criminal history records check pursuant to paragraph I-a, through its records and through the Federal Bureau of Investigation, to include a check of the National Sex Offender Registry file in the National Crime Information Center records. Upon completion of the background investigation, the division of state police shall release copies of the criminal conviction records to the department and shall indicate whether the individual is registered on the National Sex Offender Registry file in the National Crime Information Center records. The department shall maintain the confidentiality of all criminal history records information received.

(c) The costs of criminal history record and abuse and neglect registry checks shall be borne by the licensee; provided, that the licensee may require an applicant to pay the actual costs of the criminal history check and abuse and neglect registry checks of the employee.

(d) Any individual who refuses to consent to the criminal background check or knowingly makes a materially false statement in connection with such criminal background checks shall be ineligible for employment.

III. Notwithstanding paragraph I, a licensee may make a final offer of employment and allow a person to begin working in the program while the results of the state and national criminal background check is pending provided that, prior to beginning employment, the applicant completes a statement stating that he or she:

(a) Does not have any felony conviction in this or any other state.

(b) Has not been convicted of a sexual assault, assault including simple assault, any other violent crime, abuse, neglect, or any other crime that shows that they may pose a threat to well-being of children, such as a violent crime or a sexually-related crime against an adult.

(c) Has not had a finding by the department or any administrative agency in this or any other state for abuse, neglect, or exploitation of children.

IV. The results of the criminal background check shall be valid for 5 years. Prior to the expiration of that 5-year period, the individuals described in paragraph I shall undergo a background check pursuant to this section.

IV-a. If a person who is or has been employed or volunteered at a child care institution or child care agency is offered employment or volunteers at another child care institution or child care agency or a child day care agency, the person shall not be required to undergo the criminal records check described in paragraph I-a if the

previous criminal records check was completed within the last 5 years as provided in paragraph IV, and the person was determined by the department to be eligible for employment. Before entering employment or volunteering with the new agency, the person shall complete a statement as set forth in paragraph III.

V. The department shall make a determination regarding the individual's eligibility for employment no later than 45 days from submission of all required information as described in paragraphs I and I-a. If any person whose name has been submitted for a check under this section is registered or required to be registered on a state sex offender registry or repository, or the National Sex Offender Registry, or has been convicted of a felony consisting of murder, child abuse or neglect, an offense involving child sexual abuse images, trafficking, spousal abuse, a crime involving rape or sexual assault, kidnapping, arson, physical assault or battery, or a drug-related offense committed during the previous 5 years, or any other violent or sexually related misdemeanor or against a child, including child abuse, child endangerment, sexual assault, or a misdemeanor involving child sexual abuse images, or of a crime which shows that the person might be reasonably expected to pose a threat to a child, such as a violent crime or a sexually-related crime against an adult, the department shall:

(a) If the person is the applicant or owner, revoke or deny the license.

(b) If the person is a board member, household member, or child care institution or child care agency personnel, or any other person having regular contact with the enrolled children inform the child care institution or child care agency that the person is ineligible for employment and give the program an opportunity to take immediate corrective action to remove the person from the program, and, in conjunction with the department, to develop a corrective action plan, approved by the department, which shall ensure that the person will not be on the premises of the child care institution or child care agency and shall have no contact with children enrolled in the child care institution or child care agency.

(c) Suspend, deny, or revoke the license or permit if the child care institution or child care agency refuses to take corrective action as indicated in subparagraph (b), or subsequently fails to comply with the corrective action plan approved by the department.

VI. If any person whose name has been submitted for this check has been convicted of a felony offense or violent crime deemed directly or indirectly harmful to children in child residential care, crimes against minors or adults, except crimes as provided in paragraph V, or is the subject of a founded complaint of child abuse or neglect, the department may deny, revoke, or suspend a license or permit pending the development and implementation of a corrective action plan approved by the department. The department shall conduct an investigation in accordance with rules adopted under this subdivision to determine whether the person is ineligible for employment. The investigation shall include an opportunity for the person to present evidence on his or her behalf to show that the person does not pose a threat to the safety of children.

VII. (a) Once the department has made a determination that the individual required to complete a criminal record check under paragraph I-a is eligible for employment, the department shall issue a residential child care employment eligibility card, which shall be valid for 5 years provided that no disqualifying convictions are subsequently submitted, and the individual remains eligible as described in paragraph V. The department may require additional background checks to be completed based upon reliable information that the individual received one or more additional convictions subsequent to the previous criminal record submission. If the department receives confirmation from a law enforcement agency that an individual has been charged with a crime as described in paragraph III or V, the department shall suspend the individual's residential child care eligibility card and inform the agency that the individual is ineligible for employment and give the agency an opportunity to take immediate corrective action to remove the individual from the agency, and, in conjunction with the department, to develop a corrective action plan, approved by the department, which shall ensure that the individual will not be on the premises of the program and shall have no contact with children enrolled in the program while charges are pending.

(b) The fee for a residential child care employment eligibility card shall be \$25, and the card shall be valid for 5 years from the date of issuance, or a prorated amount of \$5 per year from the most recently completed criminal background check. The fee for a replacement card shall be \$10.

VIII. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the confidentiality of information collected under this section and to the release, if any, of such information.

Source. 2013, 216:2, eff. Sept. 8, 2013. 2016, 158:6, eff. Oct. 1, 2016. 2017, 91:4, eff. Aug. 6, 2017. 2018, 318:11, eff. Aug. 24, 2018. 2019, 313:2, eff. July 1, 2019. 2022, 272:59, eff. July 1, 2022.

Section 170-E:30

170-E:30 Child Care Institution; Child-Placing Agency; Information Required. – In addition to the steps required in RSA 170-E:29, the department, upon receiving an application and authorization filed by a child care institution or child-placing agency in proper order, shall, in cooperation with the operator, examine the facility or agency, and investigate the program and person or persons responsible for the care of children. When the facility or agency is administered through an executive board, board of trustees, board of directors, or other governing body, the names, addresses, and any connection of individuals on such bodies with the facility or agency shall be included. The institution or child-placing agency shall obtain and provide receipts of approval of state and local requirements pertaining to health, safety and zoning, as applicable. If the department is satisfied that the institution or child-placing agency conforms to the standards prescribed for the type of facility or agency to be operated, a license shall be issued. The commissioner or his designee may inspect the facility or agency at any time.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:31

170-E:31 Issuance. –

I. Licenses shall be issued in such form and manner as prescribed by rules adopted by the commissioner under RSA 541-A and, for foster family homes, kinship care homes, and specialized care, shall be valid for 2 years from the date issued, unless revoked by the department, or voluntarily surrendered by the licensee, or subject to conditions attached to the license which provide for a shorter license period than 2 years.

II. The department may provide dual licensure to a facility or child-placing agency. Such licensure shall be granted only upon application and shall be contingent upon a determination, by the appropriate licensing units consulting with each other, that the standards of both programs have been met without compromising any licensing requirements. If the licensing units are unable to agree, the final decision shall be made by the commissioner.

III. Licensure for child care institutions and child-placing agencies shall be valid as follows:

(a) Group homes and child care institutions: 3 years from the effective date of the license.

(b) Child-placing agencies: 4 years from the effective date of the license.

IV. The department shall make monitoring visits a minimum of once yearly each licensing period. At least one such visit during the licensing period shall not be announced in advance; however, such unannounced visit is optional for foster family homes. Clear and comprehensive records shall be maintained by the department on each licensed facility showing the dates and findings of each such visit. Such records shall be made available to the facility. If the facility is found not to be in compliance either with the statute or the rules adopted by the commissioner, a corrective action plan shall be submitted to the department. Failure to submit an acceptable plan shall result in license suspension or revocation.

V. The department may issue a 6-month permit to a newly established facility for child care, or to an established facility which has changed its physical location, to allow that facility reasonable time to become eligible for full licensure. The 6-month permit may be issued immediately upon completion of the necessary licensing inspections. If the language on such permit allows it, the facility may begin operation immediately without waiting for the state office to complete the processing of the application.

Source. 1990, 257:8, eff. Jan. 1, 1991. 2022, 272:18, eff. June 24, 2022.

Section 170-E:31-a

170-E:31-a Deemed Licensed. – Any qualified residential treatment program accredited by organizations as specified in Title 42 of the Social Security Act, 42 U.S.C. section 672(k)(4)(G), as amended, shall submit a completed license application or renewal application. Such child care institutions and child care agencies defined as group homes, specialized care, or homeless youth programs, shall be deemed licensed under this subdivision and shall be exempt from inspections carried out under RSA 170-E:31, IV. This section shall only apply to the

activities or portions of the facility or agency accredited under Title 42 of the Social Security Act, 42 U.S.C. section 672(k)(4)(G), as amended.

Source. 2021, 122:49, eff. July 9, 2021.

Section 170-E:32

170-E:32 License Renewal. –

I. A licensed child care agency, child care institution, or child-placing agency shall file for renewal of its license 3 months prior to the expiration date of the license on forms prescribed by rules adopted by the commissioner under RSA 541-A.

II. The department, a duly licensed child-placing agency, or a person designated by the department as its agent, shall reexamine every child care facility for renewal of its license, including examination of the premises, program, and such records of the facility as the department considers necessary to determine that minimum standards for licensing continue to be met. If the department is satisfied that the person, institution, or child-placing agency continues to maintain the minimum standards established by rule for that category of child care or child-placing, it shall renew the license to operate.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:33

170-E:33 Record of Licenses. –

I. The department shall keep in a central depository records of licenses issued under this subdivision and all monitoring reports that have been made relative to licensees. When a license is issued to a person or institution, the department shall give notice to the health officer and the fire department of the city or town in which the licensee is located stating the granting of such license and its terms. A like notice shall be given of any suspension or revocation of such license.

II. The license itself shall be considered public information and available for review by members of the public; information submitted in the application process, however, shall be private, confidential and not available for review.

III. For kinship family care licenses, the name of the children for which the license is issued shall be confidential and exempt from RSA 91-A.

Source. 1990, 257:8, eff. Jan. 1, 1991. 2022, 272:19, eff. June 24, 2022.

Section 170-E:34

170-E:34 Rulemaking; Consultation. –

I. The commissioner shall adopt rules, under RSA 541-A, relative to:

- (a) Minimum standards for licensing which apply to the various types of facilities for child care and child placement. The department shall seek the advice and assistance of persons representative of the various types of child care and child-placing agencies in establishing such standards. The standards prescribed shall include:
 - (1) The operation and conduct of the person, institution, or child-placing agency and the responsibility it assumes for child care or child placement, or both.
 - (2) The character, qualifications, mental and physical ability and competence of the applicant as well as all persons directly responsible for the care and welfare of children served, or of persons who will be providing necessary care for children and maintaining prescribed standards, or of persons who will do both.
 - (3) The number of individuals or staff required to insure adequate supervision and care of the children provided the particular type of care.
 - (4) The appropriateness, safety, environmental health and general adequacy of the premises, including maintenance of adequate fire prevention and health standards conforming to state laws and municipal codes, to provide for the physical comfort, health and care of children received.

- (5) Provisions for food, clothing, educational opportunities, program, equipment and individual supplies to assure the health and the physical and mental development of children served.
 - (6) Provisions to safeguard the legal rights of children served.
 - (7) Maintenance of records pertaining to the admission, progress, health and discharge of children.
 - (7-a) Provisions for the permanent retention of records pertaining to the placement of children for adoption, including maintenance of such records in the event that a licensed agency ceases to operate as a licensed child-placing agency.
 - (8) Filing of reports with the department, including format, frequency and content of such reports.
 - (9) Discipline of children.
 - (10) Protection and fostering of the particular religious faith of the children served, where applicable.
 - (11) Provisions to provide for a report of any new staff, paid or unpaid, or resident of the facility which shall include the name, birth name, date of birth and previous addresses of the person, or other information as required by rules of the department.
 - (12) Duties and responsibilities of the board of directors or other governing body of the facility or child-placing agency with respect to compliance with this subdivision and the standards relating to this subdivision as established by the department.
 - (13) Retention of records and, in the event the facility or child-placing agency is no longer functioning, transfer of records.
 - (14) The process for requesting waivers to minimum standards.
 - (b) Minimum standards for facilities for specialized care, where there are children diagnosed as mentally ill, intellectually disabled, or physically disabled, who are determined to be in need of special mental treatment or nursing care, or both, when the facility is not subject to licensure under RSA 151. The department shall seek the advice and recommendation of the department of education, as appropriate, regarding the residential treatment, education, and nursing care provided by the facility.
 - (c) The confidentiality of information gathered pursuant to RSA 170-E:28, 170-E:29, 170-E:33 and RSA 170-E:42.
 - (d) The procedures for the appeals processes provided by RSA 170-E:36, II and IV.
 - (e) Policy and procedures concerning the investigation of licensees and all disciplinary proceedings, including corrective action plans, against licensees.
 - (f) Compensation to foster family homes for the costs of caring for each child placed in their home.
 - (g) The release of information to persons receiving the child which pertains to the life and safety of the child either about to be placed or already in placement, and which may pertain to the life and safety of the persons who are receiving or who have received the child for placement, including any physical and mental health issues, history of abuse or neglect, behaviors that may be expected, and recommended ways of handling the child's problems. For purposes of this subparagraph, placement shall mean out-of-home placements, including placements for adoption.
 - (h) Establishing, maintaining, and directing a system of child care resource and referral pursuant to RSA 170-E:5-a.
 - (i) Compliance with RSA 126-U, regarding the use of physical and medication restraint.
- II. The department, in applying the standards adopted by rule under paragraph I, shall offer consultation through employed staff or other qualified persons to assist applicants and licensees in meeting and maintaining minimum requirements for a licensee.

Source. 1990, 257:8. 1991, 327:3. 1995, 310:138. 1996, 234:4. 2004, 98:1. 2008, 52:13, eff. July 11, 2008. 2021, 182:7, eff. Jan. 1, 2022. 2023, 209:5, eff. Oct. 3, 2023.

Section 170-E:35

170-E:35 License or Permit Suspension, Revocation, or Denial. –

The department may suspend, revoke, deny, or refuse to renew any license, or revoke or refuse to issue a full license to any permit holder, whether or not the person, institution or agency is approved by a child-placing agency, if the licensee or permit holder:

I. Neglects or abuses children in his care;

II. Does not comply with this subdivision or the rules adopted under this subdivision relative to the supervision

of children in his care;

III. Violates any provision of this subdivision, or is unable to meet and maintain standards adopted by the commissioner;

IV. Substantially or repeatedly violates any provisions of the license or permit issued;

V. Furnishes or makes any misleading or any false statement or report to the department or to the child-placing agency;

VI. Refuses or fails to submit any reports or to make available to the department any records required by it in making an investigation of the facility for licensing purposes;

VII. Refuses or fails to submit to an investigation or to the required visits by the department;

VIII. Refuses or fails to admit authorized representatives of the department at any reasonable time for the purpose of investigation or visit;

IX. Fails to provide, maintain, equip and keep in safe and sanitary condition premises established or used for child care as required under standards prescribed by rules adopted by the commissioner under RSA 541-A or as otherwise required by any law, rule, ordinance, or term of the license applicable to the location of such facility;

X. Refuses to display its license or permit or to make it readily available to view, if requested;

XI. Fails to exhibit, meet or maintain financial or other resources, or both, adequate for the satisfactory care of children served in regard to upkeep of premises and provisions for personal care, medical services, clothing, education and other essentials in the proper care, rearing, training and placement of children, so long as such lack of financial resources is not due primarily to delays in state payments for care;

XII. Retaliates against an employee who in good faith reports a suspected violation of the provisions of this subdivision and rules adopted under it;

XIII. Continues to employ a person without taking corrective action, after receipt of written notification from the department that the person poses a risk to children, such notification including the basis for the department's determination that the risk exists; or

XIV. Fails to comply with the corrective action plan jointly developed between the department and the person, institution or agency.

XV. Demonstrates a repeated failure to cooperate with the department, other service providers, or the parents of a child who is placed with the child care agency, as necessary to implement the child's case plan or the department's treatment decisions.

XVI. Fails to comply with applicable public health laws and regulations concerning lead.

Source. 1990, 257:8. 2010, 70:1, eff. July 18, 2010. 2018, 4:10, eff. Apr. 9, 2018.

Section 170-E:36

170-E:36 Notice and Hearing. –

I. Should the department determine to suspend, revoke or deny, or refuse to renew a license or permit, it shall send to the applicant, licensee or permittee, by registered mail, a notice which sets forth the particular reasons for the determination. The suspension, revocation, or denial shall become final 10 days after receipt of such notice unless the applicant, licensee or permittee requests a hearing under paragraph II of this section.

II. Any applicant, licensee or permittee aggrieved by a decision of the department to suspend, revoke, deny, or refuse to renew a license or permit may appeal to the commissioner through an administrative hearings process. For purposes of carrying out the provisions of this section, the commissioner may, in accordance with the rules adopted by the department of personnel pursuant to RSA 541-A, appoint a hearings officer or officers, as necessary, to preside over such hearings. A hearings officer may affirm, deny or modify the decision of the department. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to procedures for the appeals process provided under this paragraph.

III. When the department decides to suspend, revoke, deny, or refuse to renew a license or permit, and it expressly finds that the continued operation of a child care facility or child-placing agency violates any minimum standard prescribed by law or rule, or otherwise jeopardizes the health, safety, morals, well-being or welfare of children served by the facility or child-placing agency, the department shall include in its notice an order of closure directing that the operation of the facility or child-placing agency terminate immediately. In this event, the facility or child-placing agency shall not operate during the pendency of any proceeding for the review of the decision of the department, except under court order.

IV. Rehearings and appeals from a decision of the hearings officer shall be in accordance with rules adopted under RSA 541-A.

V. On or before December 31, 2010, and each year thereafter, the department shall submit a report to the chair of the house standing committee on children and family law relative to the number of license or permit suspensions, revocations, denials, and appeals for that year.

Source. 1990, 257:8. 2010, 70:2, eff. July 18, 2010.

Section 170-E:37

170-E:37 Appeal. – Any person aggrieved by any decision rendered after a rehearing held or an appeal brought under RSA 170-E:36, IV may appeal the decision to the superior court.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:38

170-E:38 Operation Without a License. – Whenever the department is advised, or has reason to believe, that any entity is operating a child care facility or child-placing agency without a license or permit, it may make an investigation to ascertain the facts. If it finds that the child care facility or child-placing agency is operating or has operated without a license or permit, the department may report the results of its investigation to the attorney general or to the appropriate county attorney for prosecution.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:39

170-E:39 Advertising. – A child care agency, child care institution, or child-placing agency licensed or operating under a permit issued by the department may publish advertisements of the services for which it is specifically licensed or issued a permit under this subdivision. No person who is required to obtain a license or permit under this subdivision may advertise or cause to be published an advertisement soliciting or offering care for a child for care or placement unless the person has obtained the requisite license or permit.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:40

170-E:40 Investigation. –

I. If the department has reason to believe that state or federal funds solicited and received by a corporation for conduct of a child care facility or child-placing agency are not being used for the purpose for which the funds were awarded, or are being fraudulently used by the corporation or its members, or purportedly are being used for a facility or child-placing agency which is actually defunct, or are being used for a facility or child-placing agency which no longer carries a valid license or permit, the department shall report these facts to the attorney general and request an investigation of the corporation to determine if the corporation should be dissolved or whether other action should be taken against the corporation or its members.

II. The department shall conduct an investigation of any complaint of violations of any licensing or operating standards against permitted or licensed child care or child-placing agencies. All investigations shall be conducted at reasonable times, with the cooperation of other state or municipal authorities, if required, and may include unannounced visits. The commissioner shall request an annual narrative summary of complaints received by the department.

III. Records compiled during an investigation shall be confidential and shall not be made public by the

department.

Source. 1990, 257:8. 1995, 310:137, eff. Nov. 1, 1995.

Section 170-E:41

170-E:41 Oaths; Subpoenas. –

- I. The department shall have the power to administer oaths in any disciplinary proceedings.
- II. Upon request of the commissioner, the attorney general shall be authorized, for good cause shown, to subpoena witnesses and to compel, by subpoena duces tecum, the production of papers and records in any disciplinary proceedings under this subdivision.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:42

170-E:42 Records. – Every child care facility and child-placing agency shall keep and maintain such records as the department prescribes pertaining to the admission, progress, health, and discharge or placement, or both, of children under the care of the facility or child-placing agency, and shall report relative to such matters to the department whenever called for, upon forms prescribed by rule. All records regarding children and all facts learned about children and their relatives shall be kept confidential by the child care facility, the child-placing agency, and the department.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:42-a

170-E:42-a Transfer or Discharge of Residents. –

- I. In this section:
 - (a) "Discharge" means movement of a resident from a child care agency to a non-institutional setting or the termination of services by a child care agency when the child care agency ceases to be legally responsible for the care of the resident.
 - (b) "Transfer" means movement of a resident from one child care agency to another child care agency when legal responsibility for the care of the resident changes from the transferring to the receiving child care agency.
- II. A resident shall be transferred or discharged after appropriate discharge planning only for medical reasons, for the resident's welfare or that of other residents, or if the child care agency ceases to operate.
- III. Transfer or discharge of a resident from a child care agency shall in all instances be preceded by written notice which shall contain the following:
 - (a) The reason for the proposed transfer or discharge;
 - (b) The effective date of the proposed transfer or discharge;
 - (c) The location to which the resident is transferred or discharged; and
 - (d) The name, address, and telephone number of the office of the ombudsman, established under RSA 126-A:4, III, and the name, address, and telephone number of the federally-designated protection and advocacy agency for individuals with disabilities.
- IV. Except as provided in paragraph V, written notice of transfer or discharge shall be given at least 30 days before the resident is transferred or discharged. A copy of the notice shall be placed in the resident's file and a copy shall be transmitted to the resident's parent or legal guardian and the agency responsible for the resident's placement.
- V. Written notice as provided in paragraph III shall be given as soon as practicable before transfer or discharge in the following circumstances:
 - (a) If an emergency transfer or discharge is mandated by the resident's health care needs;
 - (b) If the transfer or discharge is mandated by the health or safety of other individual's in the child care agency;
 - (c) If the transfer or discharge is appropriate because the resident's needs cannot be met in the child care agency;

- (d) If the transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the child care agency;
- (e) If the transfer or discharge is mandated by court order;
- (f) If the resident has reached the age of 21; or
- (g) If the resident has resided in the child care agency for less than 30 days.

VI. For the purposes of this section, "transfer" or "discharge" shall not include transfers or discharges initiated at the request of the resident's parent or legal guardian.

VII. If the resident's parent or legal guardian wishes to have the resident relocate to another child care agency or place, the resident shall be relocated according to the resident's parent's or legal guardian's wishes; provided that the resident's parent or legal guardian gives written notice of such relocation to the child care agency.

VIII. For the purposes of this section, transfer shall not include the temporary movement of a resident from a facility to a hospital or other location for emergency medical treatment.

IX. The provisions of this section shall not apply to foster family homes, as defined in RSA 170-E:25.

Source. 2022, 272:60, eff. June 24, 2022.

Section 170-E:43

170-E:43 Notice of Death. – If any child under the control of any licensed child care agency or institution dies, the licensee shall give notice of such event to the department within 24 hours thereafter stating the date and cause of death, to the extent known, duration of the most recent illness, and the names and addresses of the attending physician and undertaker.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:44

170-E:44 Reports to the Department of Health and Human Services. –

I. Any child care facility or child-placing agency receiving a child for care or supervision from a foreign state or country shall report that child to the department of health and human services in the same manner as it is required for reporting other children pursuant to RSA 170-A:1.

II. A person other than a licensed child care institution or child-placing agency shall not receive a child from a foreign state or country without prior notice to and approval of the department of health and human services. Any placement of children shall conform to RSA 170-A and RSA 170-B:28.

III. The department of health and human services may require a guarantee that a child accepted for care or supervision from a foreign state or country will not become a public charge upon this state.

IV. The department of health and human services may enter into agreements with public or voluntary social agencies headquartered in states adjacent to this state regarding the placement of children in licensed foster family homes within the boundaries of this state if the agencies meet the standards and criteria required for license as a child-placing agency in this state. The agreements may allow foreign agencies to place and supervise children for whom they have responsibility with this state without regard to paragraph I. These agreements shall, however, include a requirement that the agencies cooperate fully with the department in its inquiry or investigation into the activities and standards of those agencies, and provide that the department of health and human services may, at any time upon 15 days' written notice to an agency by registered mail, void the agreement and require the observance of paragraph I.

V. The department of health and human services shall perform its duties under this section with the approval of the commissioner.

Source. 1990, 257:8. 1994, 212:2. 1995, 310:175, 181. 2004, 255:5, eff. Jan. 2, 2005.

Section 170-E:45

170-E:45 Penalty. –

I. Any person shall be guilty of a misdemeanor who:

- (a) Conducts, operates or acts as a child care facility or child-placing agency without a license or permit to do so in violation of RSA 170-E:27, I;
- (b) Makes materially false statements in order to obtain or retain a license or permit;
- (c) Fails to keep the records and make the reports required under this subdivision;
- (d) Is required to obtain a license or permit under this subdivision and who advertises or causes to be published an advertisement for a service which is not authorized by any license or permit held;
- (e) Violates any other provision of this subdivision or any rule adopted under RSA 541-A by the commissioner for the enforcement of this subdivision;
- (f) Fails to comply with the requirements for notifying parents, legal guardians, or the department under RSA 170-E:27-a, I.

II. Foster family homes and kinship care homes which have not been licensed but which have been asked to receive children by the department or another child-placing agency on an emergency basis shall not be subject to the penalty provided in subparagraph I(a). The exemption provided in this paragraph is valid for a period of 180 days from the date of placement of the child in the home.

III. Each day a violation continues to exist shall constitute a separate offense.

Source. 1990, 257:8. 1995, 310:175. 2001, 188:3, eff. Sept. 3, 2001. 2022, 272:20, eff. June 24, 2022.

Section 170-E:46

170-E:46 Injunctive Relief. – Any person may institute in any court of competent jurisdiction an action to prevent, restrain, correct or abate any violation of this subdivision or of the rules adopted under RSA 170-E:34; and the court shall adjudge relief, by way of injunction, which may be mandatory or otherwise as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purpose of this subdivision and the rules adopted under it. In a prosecution under this subdivision, a defendant who relies upon the relationship of any child to himself has the burden of proof as to that relationship.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:47

170-E:47 License Remains in Effect. – Any license issued under this subdivision remains valid until its expiration date, unless revoked by the department, or until the date established by conditions placed on the license.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:48

170-E:48 Retaliation Prohibited. – A child care agency or child-placing agency license holder shall not retaliate, through discharge, harassment, or other discrimination, against an employee who in good faith reports a suspected violation of the provisions of this subdivision and rules adopted under it. Such retaliation shall constitute grounds for license revocation.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:49

170-E:49 Confidentiality and Investigations. – The department may request and shall receive cooperation from other state agencies in connection with investigations and licensure. Because certain information kept by other state agencies and requested by the department may be confidential, the department shall strictly observe

the confidentiality requirements of the agency from which it receives information.

Source. 1990, 257:8, eff. Jan. 1, 1991.

Section 170-E:50

170-E:50 Credentialing of Personnel in Early Care and Education Programs; Rulemaking. –

I. The commissioner shall adopt rules, under RSA 541-A, relative to accepting applications and issuing a credential to early care and education personnel including, but not limited to child care, preschool, and Head Start program personnel who have requested such a credential and who have satisfied the education and training requirements set forth in the child care program licensing rules established by the department of health and human services. Each application for a credential shall be accompanied by a fee which shall be credited to the general fund. The commissioner shall adopt rules, under RSA 541-A, establishing a fee for this purpose.

II. The department of health and human services shall incorporate this program, funded by the fee established in paragraph I of this section, into the next biennial department budget after the effective date of this section.

Source. 1999, 185:1, eff. Aug. 31, 1999.

Section 170-E:51

170-E:51 Collaboration Between the Department of Health and Human Services and Foster Parents. –

The general court finds that foster parents providing care for children who are in the custody of the department of health and human services play an integral, indispensable, and vital role in the department's effort to care for dependent children displaced from their homes. The general court further finds that it is in the best interest of the department of health and human services to acknowledge foster parents as active and participating members of this system and to support them through the following foster parent rights, as primary caregivers for children in the care and custody of the state of New Hampshire.

Source. 2018, 301:1, eff. Aug. 24, 2018.

Section 170-E:52

170-E:52 Foster Parents. –

When a child is placed in a foster home pursuant to a juvenile court order:

- I. The foster parent shall be treated with consideration and respect.
- II. The department of health and human services shall consult with the foster parent prior to the release of the foster parent's address, phone number, or other personally identifying information to the child's parent or guardian.
- III. The department of health and human services shall make a representative of the department available 24 hours a day, 7 days a week, for the purpose of aiding the foster parent in caring for the acute needs of the foster child.
- IV. The foster parent shall be given timely notice of scheduled meetings and appointments involving the foster child. The foster parent shall:
 - (a) Be provided with a written copy of information pertinent to the care of the child.
 - (b) Receive reasonable notice of any changes to the case plan as related to the child.
 - (c) Be apprised of the number of times the child has moved from one foster home to another and, as appropriate, the reasons therefor, as related to the child.
 - (d) Have the ability to request a team meeting to address concerns specific to the child.
- V. The foster parent shall be given reasonable notice of any plan to remove a child from the foster home. The notice shall include the reason for the change or termination in placement, provided there is no concern for the safety and welfare of the child.
- VI. Pursuant to RSA 169-C:14, the foster parent shall receive notice of all court proceedings, may submit written reports, and, at the court's discretion, may attend such hearings and provide oral reports of the child's behavior,

progress, and developmental, educational, and healthcare needs.

Source. 2018, 301:1, eff. Aug. 24, 2018.

Section 170-E:53

170-E:53 Extension of Foster Care Beyond the Age of 18. –

I. The commissioner of the department of health and human services shall, not later than 6 months after the effective date of this section, submit an amendment to the state plan required by 42 U.S.C. section 671 to the United States secretary of health and human services to implement 42 U.S.C. section 675(8) to make federal payments for foster care under Title IV-E directly on behalf of any person who meets the following requirements:

- (a) The person has attained the age of 18 but not attained the age of 21.
- (b) The person was in the custody of the department of health and human services upon attaining the age of 18.
- (c) The person signs a voluntary participation agreement.
- (d) The person:
 - (1) Is completing secondary education or a program leading to an equivalent credential; or
 - (2) Is enrolled in an institution that provides postsecondary or vocational education; or
 - (3) Is participating in a program or activity designed to promote, or remove barriers to, employment; or
 - (4) Is employed for at least 80 hours per month; or
 - (5) Is incapable of doing any of the activities described in subparagraphs (1)-(4) due to a medical condition, which incapacity is supported by regularly updated information in the person's case record or plan.

II. Any person who meets the requirements of paragraph I may apply for extended foster care payments and services pursuant to such application as the department may require. If a person who meets the requirements of paragraph I refused services at the time of the person's eighteenth birthday, such person may apply to regain services at any time prior to his or her twenty-first birthday.

III. Such services shall be in addition to any other transitional services or programs for which the individual may be eligible, including but not limited to those provided pursuant to 42 U.S.C. section 677, the John H. Chafee Foster Care Program for Successful Transition to Adulthood. Not less than 6 months after the effective date of this section, the commissioner of the department of health and human services shall submit any amendment to the state plan or certification required under 42 U.S.C. section 677(b)(3) to provide assistance and services to individuals who have aged out of foster care and have not attained 23 years of age.

Source. 2019, 175:1, eff. Sept. 8, 2019.

Section 170-E:53-a

170-E:53-a Purpose. – The purpose of this subdivision is to provide for the licensing of recreation camps and certification of criminal background checks for youth skill camps.

Source. 2019, 346:133, eff. Jan. 1, 2020.

Section 170-E:54

170-E:54 Rulemaking. –

I. The commissioner shall adopt rules under RSA 541-A relative to:

- (a) Issuance of licenses to recreation camp operators under RSA 170-E:56, I.
- (b) Requirements for performing criminal background checks at youth skill camps and certifying acceptable results as required under RSA 170-E:56 and establishing appropriate sanctions and penalties for failing to perform the required background checks.

II. The commissioner shall adopt all other necessary rules under RSA 541-A, relative to public health and safety issues for the protection of persons attending recreation camps regulated under RSA 170-E:56, I.

Source. 2019, 346:133, eff. Jan. 1, 2020.

Section 170-E:55

170-E:55 Definitions. –

I. "Recreation camp" means any place set apart for recreational purposes for children. It shall not apply to group child day care centers and preschool programs as defined in RSA 170-E:2, private camps owned or leased for individual or family use, or to any camp operated for a period of less than 10 days in a year.

II. "Youth skill camp" means a nonprofit or for-profit program that lasts 8 hours total or more in a year for the purpose of teaching a skill to minors. Such camps include, but are not limited to, the teaching of sports, the arts, and scientific inquiry.

Source. 2019, 346:133, eff. Jan. 1, 2020. 2023, 209:6, eff. Oct. 3, 2023.

Section 170-E:56

170-E:56 Recreation Camp License; Youth Skill Camp Certification of Criminal Background Check. –

I. No person shall for profit or for charitable purposes operate any recreation camp, as defined in RSA 170-E:55, I, designed or intended as a vacation or recreation resort, without a license issued by the department. Such license shall be conditioned upon the maintenance of clean, healthful sanitary conditions and methods, as determined and approved by said department, good only for the calendar year in which it is issued and subject to suspension or revocation at any time for cause. The fee for such license shall be \$200 which shall be paid into the recreation camp and youth skill camp fund established in RSA 170-E:57.

II. (a) No person or entity shall for profit or for charitable purposes operate any youth skill camp, as defined in RSA 170-E:55, II without maintaining an appropriate policy regarding background checks for camp owners, employees and volunteers who may be left alone with any child or children. Certification of background checks shall be made to the department demonstrating that no individual has a criminal conviction for any offense involving:

(1) Causing or threatening direct physical injury to any individual; or

(2) Causing or threatening harm of any nature to any child or children.

(b) Any person or entity required to perform background checks and provide certification to the department pursuant to subparagraph (a) shall pay a fee of \$25 to the department. All such fees collected by the department shall be deposited into the recreation camp and youth skill camp fund established in RSA 170-E:57.

(c) Subparagraphs (a) and (b) shall not apply to any person or entity which owns property used to operate a youth skill camp or any buildings or structures on such property used in the operation of a youth skill camp, provided such person or entity obtains written certification signed by the youth skill camp operator stating that background checks in accordance with this paragraph have been completed.

(d) Nothing in this section shall preclude more stringent requirements for background checks on the part of camp owners, directors, or operators.

(e) Such policies shall be made available to the department and shall include the frequency of the background checks and the sources used to conduct the background checks. The department shall provide information on each youth skill camp's policy on the department's website.

(f) If an employee or volunteer has been the subject of a background check performed by another person or entity within 12 months, the previous background check may, with the signed and written consent of the employee or volunteer, be shared with the operator of the youth skill camp and may be used to satisfy the requirements of this paragraph, notwithstanding any other law providing for the confidentiality of such information.

Source. 2019, 346:133, eff. Jan. 1, 2020.

Section 170-E:57

170-E:57 Recreation Camp and Youth Skill Camp Fund. – There is established the recreation camp and youth skills camp fund. This fund shall be nonlapsing and continually appropriated to the commissioner of the department of health and human services, for the purpose of paying costs associated with administering the provisions of this subdivision.

Source. 2019, 346:133, eff. Jan. 1, 2020.

Section 170-E:58

170-E:58 Statement of Health for Recreational Camps. – Notwithstanding any law or rule to the contrary, any physical examination which is required before a child may enter a recreational camp may be conducted by a physician, an advance practice registered nurse, or a physician assistant.

Source. 2019, 346:133, eff. Jan. 1, 2020.

Section 170-E:59

170-E:59 Possession and Use of Epinephrine Auto-Injectors at Recreation Camps. –

A recreation camp shall permit a child with severe, potentially life-threatening allergies to possess and use an epinephrine auto-injector, if the following conditions are satisfied:

I. The child has the written approval of the child's physician and the written approval of the parent or guardian. The camp shall obtain the following information from the child's physician:

- (a) The child's name.
 - (b) The name and signature of the licensed prescriber and business and emergency numbers.
 - (c) The name, route, and dosage of medication.
 - (d) The frequency and time of medication administration or assistance.
 - (e) The date of the order.
 - (f) A diagnosis and any other medical conditions requiring medications, if not a violation of confidentiality or if not contrary to the request of the parent or guardian to keep confidential.
 - (g) Specific recommendations for administration.
 - (h) Any special side effects, contraindications, and adverse reactions to be observed.
 - (i) The name of each required medication.
 - (j) Any severe adverse reactions that may occur to another child, for whom the epinephrine auto-injector is not prescribed, should such a child receive a dose of the medication.
- II. The recreational camp administrator or, if a nurse is assigned to the camp, the nurse shall receive copies of the written approvals required by paragraph I.
- III. The child's parent or guardian shall submit written verification from the physician confirming that the child has the knowledge and skills to safely possess and use an epinephrine auto-injector in a camp setting.
- IV. If the conditions provided in this section are satisfied, the child may possess and use the epinephrine auto-injector at the camp or at any camp-sponsored activity, event, or program.
- V. In this section, "physician" means any physician or health practitioner with the authority to write prescriptions.

Source. 2019, 346:133, eff. Jan. 1, 2020.

Section 170-E:60

170-E:60 Use of Epinephrine Auto-Injector. – Immediately after using the epinephrine auto-injector, the child shall report such use to the nurse or another camp employee to enable the nurse or camp employee to provide appropriate follow-up care.

Source. 2019, 346:133, eff. Jan. 1, 2020.

Section 170-E:61

170-E:61 Availability of Epinephrine Auto-Injector. – The recreational camp nurse or, if a nurse is not assigned to the camp, the recreational camp administrator shall maintain for the use of a child with severe allergies at least one epinephrine auto-injector, provided by the child or the child's parent or guardian, which shall be readily accessible to the recreational camp staff caring for children requiring such medications.

Source. 2019, 346:133, eff. Jan. 1, 2020. 2021, 122:50, eff. July 9, 2021.

Section 170-E:62

170-E:62 Immunity. – No recreational camp or camp employee shall be liable in a suit for damages as a result of any act or omission related to a child's use of an epinephrine auto-injector if the provisions of RSA 170-E:59 have been met, unless the damages were caused by willful or wanton conduct or disregard of the criteria established in that section for the possession and self-administration of an epinephrine auto-injector by a child.

Source. 2019, 346:133, eff. Jan. 1, 2020.

Section 170-E:63

170-E:63 Possession and Use of Asthma Inhalers at Recreation Camps. –

A recreation camp shall permit a child to possess and use a metered dose inhaler or a dry powder inhaler to alleviate asthmatic symptoms, or before exercise to prevent the onset of asthmatic symptoms, if the following conditions are satisfied:

I. The child has the written approval of the child's physician and the written approval of the parent or guardian. The camp shall obtain the following information from the child's physician:

- (a) The child's name.
- (b) The name and signature of the licensed prescriber and business and emergency numbers.
- (c) The name, route, and dosage of medication.
- (d) The frequency and time of medication administration or assistance.
- (e) The date of the order.
- (f) A diagnosis and any other medical conditions requiring medications, if not a violation of confidentiality or if not contrary to the request of the parent or guardian to keep confidential.
- (g) Specific recommendations for administration.
- (h) Any special side effects, contraindications, and adverse reactions to be observed.
- (i) The name of each required medication.
- (j) At least one emergency telephone number for contacting the parent or guardian.

II. The recreational camp administrator or, if a nurse is assigned to the camp, the nurse shall receive copies of the written approvals required by paragraph I.

III. The child's parent or guardian shall submit written verification from the physician confirming that the child has the knowledge and skills to safely possess and use an asthma inhaler in a camp setting.

IV. If the conditions provided in this section are satisfied, the child may possess and use the inhaler at the camp or at any camp sponsored activity, event, or program.

V. In this section, "physician" includes any physician or health practitioner with the authority to write prescriptions.

Source. 2019, 346:133, eff. Jan. 1, 2020.

Section 170-E:63-a

170-E:63-a Availability of Asthma Inhalers. – The recreational camp nurse or, if a nurse is not assigned to the camp, the recreational camp administrator shall maintain for the use of a child with asthma at least one metered dose inhaler or a dry powder inhaler, provided by the child or the child's parent or guardian, which shall

be readily accessible to the recreational camp staff caring for children requiring such medications.

Source. 2021, 122:51, eff. July 9, 2021.

Section 170-E:64

170-E:64 Immunity. – No recreational camp or camp employee shall be liable in a suit for damages as a result of any act or omission related to a child's use of an inhaler if the provisions of RSA 170-E:63 have been met, unless the damages were caused by willful or wanton conduct or disregard of the criteria established in that section for the possession and self-administration of an asthma inhaler by a child.

Source. 2019, 346:133, eff. Jan. 1, 2020.

Section 170-E:65

170-E:65 Injunction. – Any person operating or maintaining a recreation camp or youth skill camp without the same having been approved by the department may be enjoined by the superior court or any justice of the court upon petition brought by the attorney general.

Source. 2019, 346:133, eff. Jan. 1, 2020.

Section 170-E:66

170-E:66 Penalty; Administrative Fines. –

I. Whoever violates any of the provisions of this subdivision, or rules adopted under this subdivision shall be guilty of a violation if a natural person, or guilty of a misdemeanor if any other person.

II. The commissioner, after notice and hearing, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of this subdivision, any rule adopted under this subdivision, or any license or approval issued under this subdivision. Re-hearings and appeals from a decision of the commissioner under this paragraph shall be in accordance with RSA 541. Any administrative fine imposed under this section shall not preclude the imposition of further penalties under this chapter. The proceeds of administrative fines levied pursuant to this paragraph shall be deposited in the general fund. The commissioner shall adopt rules, under RSA 541-A, relative to:

- (a) A schedule of administrative fines which may be imposed under this paragraph; and
- (b) Procedures for notice and hearing prior to the imposition of an administrative fine.

Source. 2019, 346:133, eff. Jan. 1, 2020.

Section 170-E:67

170-E:67 Confidentiality and Investigations. – The department may request and shall receive cooperation from other state agencies in connection with investigations and licensure. The department shall strictly observe the confidentiality requirements of the agency from which it receives information.

Source. 2022, 272:12, eff. July 1, 2022.

Section 170-E:68

170-E:68 License Suspension, Revocation, or Denial. –

The department may suspend, revoke, or deny any license if the license holder:

- I. Neglects or abuses children in his or her care;
- II. Does not comply with this subdivision or the rules adopted under this subdivision relative to the health and safety of children;

- III. Violates any provision of this subdivision, or is unable to meet and maintain standards adopted by the commissioner;
- IV. Substantially or repeatedly violates any provisions of the license issued;
- V. Furnishes or makes any misleading or any false statement or report to the department;
- VI. Refuses or fails to submit any reports or to make available to the department any records required by it in making an investigation of the facility for licensing purposes;
- VII. Refuses or fails to submit to an investigation or to the required visits by the department;
- VIII. Refuses or fails to admit authorized representatives of the department at any time the camp is in operation for the purpose of investigation or visit;
- IX. Fails to provide, maintain, equip, and keep in safe and sanitary condition premises established or used for recreation camps as required under standards prescribed by rules adopted by the commissioner under RSA 541-A or as otherwise required by any law, rule, ordinance, or term of the license applicable to the location of such facility; or
- X. Retaliates against an employee who in good faith reports a suspected violation of the provisions of this subdivision and rules adopted under it.

Source. 2022, 272:12, eff. July 1, 2022.

Section 170-E:69

170-E:69 Confidentiality and Investigations. –

- I. The department shall conduct an investigation of any complaint of non-compliance of any licensing or operating standards against licensed recreation camps. All investigations shall be conducted at reasonable times, with the cooperation of other state or municipal authorities, if required, and may include unannounced visits. The commissioner shall request an annual narrative summary of complaints received by the department.
- II. Records compiled during an investigation shall be confidential and shall not be made public by the department.

Source. 2023, 209:7, eff. Oct. 3, 2023.