STATE OF NEW HAMPSHIRE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

LEGAL AND REGULATORY SERVICES

BUREAU OF GENERAL COUNSEL – ADMINISTRATIVE RULES UNIT

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June 15, 2020

David K. Alukonis, Director
Office of Legislative Services- Administrative Rules
25 Capitol Street
State House Annex, Room 219
Concord, NH 03301

RE: Adoption- Notice No. 2020-4

Dear Mr. Alukonis:

On May 29, 2020, the New Hampshire Department of Health and Human Services (Department) received conditional approval from the Joint Legislative Committee on Administrative Rules (Committee) of the proposed conditional approval request dated April 23, 2020 regarding rule He-M 1201 entitled "Healthcare Coordination and Medication Administration". On June 12, 2020, the Department received written recognition that the conditional approval request made all changes approved by the Committee and gave approval to adopt the rule.

I, Lori A. Shibinette, Commissioner, hereby certify that the enclosed is a true copy of the rule as approved by the Committee at the meeting on May 29, 2020, and in accordance with RSA 541-A:14, I(b), the Department of Health and Human Services hereby adopts this rule in this final format as approved.

I thank you, the Committee, and the Office of Legislative Services for your comments and for your cooperation and assistance with this process.

Sincerely,

Lori Shibinette

Lori A. Shibinette
Commissioner

Countersigned by:

Ann Landry
Associate Commissioner

Enclosure

Readopt with amendment He-M 1201, effective 9-25-19 (Document #12876, Interim), cited and to read as follows:

CHAPTER He-M 1200 MEDICATION STANDARDS

PART He-M 1201 HEALTHCARE COORDINATION AND ADMINISTRATION OF MEDICATIONS

He-M 1201.01 Purpose. The purpose of these rules is to establish minimum standards for individuals' health coordination and to ensure the safe administration of medications by providers to individuals who receive services pursuant to He-M 1001, He-M 507, He-M 518, He-M 521, He-M 524, or He-M 525 as applicable.

He-M 1201.02 Definitions.

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

(1) Is not congenital or caused by birth trauma;

(2) Presents a severe and life-long disabling condition, which significantly impairs a person's ability to function in society;

(3) Occurs prior to age 60;

(4) Is attributable to one or more of the following reasons:

a. External trauma to the brain as a result of:

1. A motor vehicle incident;

2. A fall;

3. An assault; or

4. Another related traumatic incident or occurrence;

b. Anoxic or hypoxic injury to the brain such as from:

1. Cardiopulmonary arrest;

2. Carbon monoxide poisoning;

3. Airway obstruction;

4. Hemorrhage; or

5. Near drowning;

c. Infectious diseases such as encephalitis and meningitis;

d. Brain tumor;

e. Intracranial surgery;

f. Cerebrovascular disruption such as a stroke;

g. Toxic exposure; and

h. Other neurological disorders such as Huntington's disease or multiple sclerosis which predominantly affect the central nervous system; and

(5) Is manifested by:

a. Significant decline in cognitive functioning and ability; or

b. Deterioration in:

1. Personality;

2. Impulse control;

3. Judgment;

4. Modulation of mood; or

5. Awareness of deficits.

(b) "Administration" means an act whereby a single dose of a drug is instilled into the body of, applied to the body of, or otherwise given to an individual by an authorized provider for immediate consumption or use.

(c) "Area agency" means an entity established as a non-profit corporation in the state of New Hampshire which is designated by the bureau administrator to provide services to persons with developmental disabilities and acquired brain disorders in a geographic area in accordance with RSA 171-A:18 and He-M 505.

(d) "Authorized provider" means a person who meets the requirements of He-M 1201.06 and is employed by, has a contract with, or receives any form of remuneration from a provider agency, individual, or family to deliver services to an individual pursuant to He-M 1001, He-M 507, He-M 518, He-M 521, He-M 524, or He-M 525, as applicable.

(e) "Bureau" means the bureau of developmental services of the department of health and human services.

(f) "Bureau administrator" means the chief administrator of the bureau of developmental services or his or her designee.

(g) "Competent" means having the knowledge, judgment, and skills necessary to perform safe medication administration and other nursing-related activities in accordance with Nur 404.

(h) "Controlled drug" means a drug which is included in schedule I, II, III, IV, or V of part B of the Controlled Substances Act, 21 U.S.C. 811-812.

(i) "Department" means the New Hampshire department of health and human services.

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

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

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

(k) "Family residence" means a residence that is:

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

(2) Under contract with a provider agency.

(l) "Individual" means a person with a developmental disability or acquired brain disorder who receives services from an area agency.

(m) "Frail health" means an acute or chronic medical condition that results in the inability of the individual to perform activities of daily living or daily routines which the individual previously had the ability to perform, and which has been identified by a nurse trainer to require ongoing monitoring to guard against deterioration.

(n) "Guardian" means the parent of a child under the age of 18 whose parental rights have not been terminated under RSA 170-C or a person appointed to be guardian of the individual under RSA 464-A.

(o) "Licensed person" means one of the following persons, who are licensed or registered in the state of New Hampshire:

(1) A registered nurse;

(2) A licensed practical nurse;

(3) An advanced practice registered nurse;

(4) A physician;

(5) A pharmacist;

(6) A physician assistant;

(7) An optometrist;

(8) A podiatrist; or

(9) A dentist.

(p) "Medical director" means the medical director of the bureau or his or her designee.

(q) "Medication" means a drug prescribed for an individual by a prescribing practitioner, including drugs to be taken on a pro re nata (PRN) basis and over-the-counter drugs.

(r) "Medication error" means any deviation in the administration of a medication as prescribed or in the documentation of such administration, with the exception of an individual's refusal.

(s) "Medication log" means a written record of medications prescribed for, and administered to, an individual.

(t) "Medication order" means:

(1) Written directions provided by a prescribing practitioner for a specific drug to be administered to an individual; or

(2) Verbal directions provided by a prescribing practitioner to a licensed person for a specific drug to be administered to an individual.

(u) "Nurse trainer" means a registered nurse subject to the nursing scope of practice outlined in RSA 326-B and related administrative rules who has been designated as a trainer pursuant to He-M 1201.10.

(v) "Nursing-related activities" means tasks that relate to an individual's health care and are delegated by a licensed nurse to an unlicensed person, when the tasks:

(1) Are routine in nature;

(2) Do not require the judgment of a nurse; and

(3) Raise no expectation that the individual's symptoms, vital signs, or reactions to medications will suddenly change.

(w) "PRN medication" means a drug ordered to be taken as needed under specific conditions.

(x) "Prescribing practitioner" means a licensed professional with prescriptive authority, including the following:

(1) Physician;

(2) Advanced practice registered nurse (A.P.R.N.);

(3) Dentist;

(4) Physician's assistant;

(5) Optometrist; and

(6) Podiatrist.

(y) "Provider" means a person who is employed by, has a contract with, or receives any form of remuneration from a provider agency, individual, or family to deliver services to an individual pursuant to He-M 1001, He-M 507, He-M 518, He-M 521, He-M 524, or He-M 525 as applicable.

(z) "Provider agency" means an area agency or an entity under contract with an area agency that is responsible for provision of services to individuals.

He-M 1201.03 Healthcare Coordination.

(a) A nurse trainer shall meet with each individual residing in a residence certified pursuant to He-M 1001 and his or her provider within 30 days of the individual's residency, and annually thereafter, to review the level of support provided.

(b) A review pursuant to (a) above shall include:

(1) For each individual;

a. Health history information;

b. Health Risk Screening Tool (HRST) monthly data tracker information;

c. Supports provided to maintain physical, mental, and social well-being as reflected in the service agreement pursuant to He-M 503.02 (t)(1)-(3); and

(2) The identification of individuals in frail health.

(c) For individuals who receive services pursuant to He-M 507 and He-M 518, the area agency or provider agency shall provide the following information to the nurse trainer when initiating services:

(1) Medical history, including diagnoses; and

(2) A list of current medications.

(d) Providers accompanying an individual receiving services pursuant to He-M 1001, He-M 507, He-M 518, He-M 521, He-M 524, or He-M 525, as applicable, to a non-emergent medical appointment shall have, at a minimum, the following information:

(1) The reason(s) or purpose for seeking non-emergent care;

(2) A list of the individual's current medications, allergies, and any recent diagnostic or laboratory testing, as applicable; and

(3) Relevant information reflected within the Health Risk Screening Tool (HRST) monthly data tracker.

(e) The provider shall review with the primary care physician or practitioner annual health screening recommendations based on the individual's age and diagnosis.

(f) The nurse trainer shall maintain documentation required by (a) and (c) above.

(g) The provider shall maintain documentation required by (d) and (e) above.

He-M 1201.04 Medication Administration.

(a) Administration of medications to individuals shall be performed by authorized providers or licensed persons only.

(b) All individuals shall be initially assessed by a nurse trainer to determine the level of support needed specific to medication administration.

(c) The assessment pursuant to (b) above shall include the individual's:

(1) Medication order(s) and medications prescribed;

(2) Health status and health history; and

(3) Ability to self-administer medications as outlined in He-M 1201.05 (b).

(d) If a guardian with authority to make health care decisions has been appointed for an individual, the provider agency shall obtain the consent of the guardian prior to the implementation of medication orders.

(e) Authorized providers shall maintain a copy of the guardian's consent, including the current contact information for the guardian, in the individual's record.

(f) Authorized providers shall administer only those medications for which there is an unexpired medication order.

(g) Authorized providers shall maintain a copy of each individual's medication orders in the individual's record.

(h) Medication orders and protocols shall be valid for no more than one year unless otherwise specified by the prescribing practitioner.

(i) Authorized providers shall administer PRN medication in accordance with:

(1) A medication order; and

(2) PRN protocols that shall include:

a. The specific condition(s) for which the medication is ordered;

b. A maximum daily dosage;

c. The interval between doses;

d. Any special instructions approved by a nurse trainer or prescribing practitioner, and

e. Review by a nurse trainer in accordance with the orders of the prescribing practitioner, but no less frequently than 2 years from the date of the protocol.

(j) Authorized providers shall administer medications only to the individuals to whom they are regularly assigned or about whom they have current knowledge relative to the individual's medication regimes.

(k) The authorized provider shall obtain information specific to each medication prior to administration of medication, including, at a minimum:

(1) The purpose and effect(s) of the medication;

(2) Response time of the medication;

(3) Possible side effects, adverse reactions, and symptoms of overdose;

(4) Possible medication interactions; and

(5) Special storage or administration procedures.

(l) In the event of discovery of a medication error, or of a medication refusal, an authorized provider shall:

(1) Consult immediately with a nurse trainer or licensed designee or the individual's prescribing practitioner or licensed designee concerning any actions to be taken;

(2) Document each medication error or individual's refusal pursuant to He-M 1201.07 (k) immediately upon discovery of the medication error or the individual's refusal; and

(3) Forward the documentation to the nurse trainer within 24 hours.

(m) In those cases where an individual has a history of medication refusal, immediate consultation and documentation pursuant to (l) above shall not be necessary if a plan has been written by the authorized provider and nurse trainer that includes the actions to be taken to address the refusal and has been approved by the prescribing practitioner and, if applicable, the individual's guardian.

(n) The authorized provider shall maintain copies of medication errors and medication refusal reports in each individual's record.

(o) A family residence certified as a community residence pursuant to He-M 1001where no more than one individual is receiving services from an area agency, medication administration shall comply with He-M 1201. Nur 404 may only be utilized by the nurse trainer in situations where there is no medication trained provider available, and the provider shall become certified pursuant to He-M 1201.06 within 60 days of being authorized under Nur 404.

He-M 1201.05 Self-Administration of Medication.

(a) An individual shall be presumed to be capable to self-administer medications unless the individual:

(1) Has been appointed a guardian, pursuant to RSA 464-A, with the authority to consent to or approve of medical treatment or care; or

(2) Has been assessed pursuant to (b) and (c) below and does not demonstrate the ability to self-administer medications.

(b) An individual who wishes to self-administer medication(s), with the approval of his or her guardian, if applicable, shall be assessed by a nurse trainer and determined to be capable of self-administering medications if the individual demonstrates the ability to do the following:

(1) Identify each medication;

(2) Indicate the purpose of each medication;

(3) Indicate the dosage, frequency, time, and route of administration for each medication;

(4) Understand the potential consequences of not taking the medication or of not taking the medication properly;

(5) Indicate circumstances for which assistance should be sought from licensed persons; and

(6) Seek assistance, if needed, from licensed persons.

(c) For individuals who wish to self-administer medication but do not demonstrate the ability pursuant to (b) above, the provider agency shall:

(1) Document in the service agreement the individual's need for education in order to self-administer medications;

(2) Initiate education that includes, minimally, the components outlined in (b) above; and

(3) After the individual has received the education in (2) above, require a licensed person or authorized provider to directly supervise the individual self-administering medications to prevent medication errors and to evaluate the individual's capability to self-administer medication.

(d) The nurse trainer shall assess individuals who self-administer medications to determine the individual's continued capability to self-administer medications:

(1) No later than last day of the 12^{th} month from the date of the prior assessment; or

(2) More frequently if the individual begins to demonstrate that he or she does not meet the criteria in (b) above.

(e) The nurse trainer shall maintain documentation of the ability to self-administer medications, including the guardian's approval, if applicable, in the individual's record.

He-M 1201.06 Training and Authorization of Providers.

(a) Providers who request training to be authorized to administer medications shall complete a training program that:

(1) Includes of a minimum of 8 hours of classroom training, exclusive of testing or nurse trainer evaluation of whether or not the provider is competent;

(2) Is conducted by a nurse trainer and utilizes the New Hampshire state-approved written curriculum and test distributed by the bureau of developmental services; and

(3) Covers the following topics:

a. Effective health care coordination;

b. The role, responsibilities, and performance of the authorized provider in the medication administration process;

c. The rights of the individual regarding accepting or refusing medications;

d. Principles of infection control as they relate to medication administration;

e. Anatomy and physiology as they relate to medication administration;

f. Common reactions to medications;

g. Categories of medications and their effects;

h. Effective management of poisoning or medication overdose;

i. Storage and disposal of medications;

j. Communication with individuals or guardian, if applicable, about the individual's medications;

k. The 6 principles of medication administration, including:

1. The correct medication;

2. The correct dosage of the medication;

3. The medication to the correct individual;

4. The medication at the correct time;

5. The medication to the individual by the correct method; and

6. The accurate documentation;

l. Methods of administration including:

1. Oral;

2. Topical;

3. Inhalant;

4. Sublingual;

5. Transdermal;

6. Nasal;

7. Ocular;

8. Auricular;

9. Vaginal;

10. Rectal; and

11. When indicated by the needs of the individual:

(i) Subcutaneous;

(ii) Enteral; and

(iii) Intramuscular only for epinephrine from a labeled and pre-set or pre-drawn delivery system; and

m. Methods of documenting:

1. The administration of medications;

2. The use of controlled substances; and

3. Medication errors or refusals.

(b) The nurse trainer shall issue written authorization to a provider to administer medications if the provider:

(1) Completed a minimum of 8 hours of classroom training as set forth in (a) above;

(2) Scored 80% or higher on a written examination based on the information conveyed to them in the training referenced in (a) above;

(3) Demonstrated knowledge of the following pertaining to each individual's medication(s):

a. The name of the medication;

b. The reason for its use;

c. Any side effects or adverse reactions; and

d. Any special instructions such as giving certain fluids, checking pulse rate or monitoring blood levels; and

(4) Following direct observation by a nurse trainer, has been found competent, pursuant to Nur 404, to be authorized to administer medications.

(c) The authorized provider shall notify the nurse trainer whenever:

(1) Any change in an individual's medication occurs;

(2) Any clarification of medication orders or administration is needed; or

(3) An individual is hospitalized or receives medical treatment.

(d) Following notification in (c) above, the nurse trainer shall educate the authorized provider according to (b)(3) above.

(e) Providers shall be re-authorized to administer medications at least annually or by the last day of the 12th month from the date of the prior authorization.

(f) Re-authorization of an authorized provider shall:

(1) Include, at a minimum, a demonstration of (a)(3)d. and k., and (b)(3) above;

(2) Follow a nurse trainer's direct observation of the provider in the administration of medication; and

(3) Be valid for the period of time described in (e) above.

(g) Each authorized provider shall maintain documentation in the individual's record of authorization pursuant to (b), (d), (e), and (f) above.

(h) The nurse trainer shall rescind or reinstate the authorization of a provider to administer medications in accordance with Nur 404 and He-M 1201.06, respectively.

(i) The nurse trainer shall specifically authorize a provider for each setting in which the provider will provide medication.

He-M 1201.07 Documentation.

(a) Documentation of medication administration shall be performed and maintained by authorized providers or licensed persons only.

(b) Authorized providers and licensed persons shall document medication administration only for those medications that they administered themselves.

(c) For each individual for whom medications are administered, an authorized provider shall maintain documentation of medication administration that includes:

(1) The name of the individual;

(2) If applicable, the guardian's name and contact information;

(3) Allergies, if applicable; and

(4) For each medication prescribed:

a. The name;

b. The dosage;

c. The frequency of administration;

d. The route of administration;

e. The date and time of administration;

f. The name of the prescribing practitioner;

g. The order date; and

h. Special considerations in administering the medication, if applicable, as directed by the prescribing practitioner or the pharmacist.

(d) The authorized provider or licensed person shall document all medication administration on the individual's medication log as soon as possible following administration including, at a minimum, elements specified in Nur 404.

(e) Documentation of administration of controlled medication shall be in a log separate from the medication log for all other medications.

(f) When a PRN medication is administered, documentation shall be pursuant to He-M 1201.07(c) and shall also include the reason for administration and the effect the medication had on the individual.

(g) Each authorized provider or licensed person who administers medications to an individual shall enter his or her full signature and initials on a cover sheet annually in the individual's current medication log.

(h) When a controlled drug is prescribed for an individual, authorized providers or licensed persons shall maintain an inventory that includes:

(1) The name of the drug and strength;

(2) The amount used;

(3) The amount remaining;

(4) The signature of the authorized provider or licensed person who administers the controlled medication;

(5) Documentation of a daily count; and

(6) If applicable, documentation of disposal in the presence of 2 people, at least one of whom is a licensed person.

(i) When an over-the-counter medication is prescribed, authorized providers shall consult with a licensed person to:

(1) Ensure the over-the-counter medication is:

a. The right brand-name or generic drug;

b. The right dosage;

c. Appropriate for the right route of administration; and

d. Administered in keeping with a PRN protocol pursuant to He-M 1201.04 (i)(2); and

(2) Review any special considerations in administering the medication, as directed by the licensed person.

(j) Documentation pursuant to (i)(1) and (2) above shall include the name of the licensed person the authorized provider consulted with and the date of the consultation.

(k) Upon discovery of each medication error, and each time an individual refuses medications, except as noted in He-M 1201.04 (m), the authorized provider or licensed person shall document, at a minimum, the following:

(1) The individual's name;

(2) The date and time of medication error or individual's refusal;

(3) The drug name, dosage, frequency, and route of administration;

(4) A description of the medication error or individual's refusal;

(5) Date and time of consultation of a licensed person, pursuant to He-M 1201.04 (l);

(6) Actions recommended by the licensed person;

(7) Actions taken by the authorized provider; and

(8) Date and time of notification of a nurse trainer.

(l) The nurse trainer shall submit a written report to the area agency or subcontract agency within 5 business days regarding any authorized provider or licensed person who demonstrates a pattern of noncompliance with He-M 1201 as determined by Nur 404, and include documentation from (k) above.

(m) The requirements of (a)-(l) above shall not apply to individuals who self-administer medications pursuant to He-M 1201.05 (b).

He-M 1201.08 Storage of Medications.

(a) All medications to be administered by authorized providers, except as noted in (c) below shall be kept in a locked container, cabinet, or closet.

(b) All controlled drugs to be administered by authorized providers, except as noted in (c) below, shall be stored in a locked compartment within a locked container, cabinet, or closet.

(c) In family residences of 3 or fewer individuals certified as a community residence pursuant to He-M 1001, medications shall be stored in a manner determined to be safe by the nurse trainer, including in unlocked containers. Such a decision shall be documented by the nurse trainer in the individual's record.

He-M 1201.09 Quality Review.

(a) A nurse trainer or licensed designee shall review the following for all individuals whose medications are administered by authorized providers:

(1) Documentation that the provider administering the medication(s) holds a current authorization;

(2) Medication orders and PRN protocols;

(3) Medication labels and medications listed on the medication log to ensure that they match the prescribing practitioner's orders;

(4) Medication logs to ensure that documentation indicates:

a. That medication was administered as prescribed;

b. Refusal by the individual to take medication, if applicable;

c. Any medication occurrences; and

(5) Medication storage to ensure compliance with He-M 1201.08; and

(6) Controlled drug inventory pursuant to He-M 1201.07(h).

(b) Reviews pursuant to (a) above shall occur according to the following timeframes:

(1) At least once every 6 calendar months, for:

a. Family residences with 3 or fewer individuals certified pursuant to He-M 1001; and

b. Individuals receiving medication administration in accordance with these rules and services pursuant to He-M 521, He-M 524, or He-M 525;

(2) At least monthly for the first 3 months for newly eligible individuals beginning services or for individuals receiving services in a new setting, with the initial review occurring at least 30 days after the individual begins service or moves into a new setting;

(3) At least once every 6 calendar months, for authorized providers who:

a. Administer medications but do not reside in the family residence with 3 or fewer individuals; or

b. Administer medications in programs certified under both He-M 507 and He-M 1001; and

(4) At least monthly, for all other settings in which authorized providers administer medications.

(c) Any deficiencies discovered and documented by the nurse trainer pursuant to the required review in (a) above shall not result in deficiencies cited during a certification review pursuant to He-M 1001.

(d) The nurse trainer shall submit information regarding patterns of non-compliance, as demonstrated by reports in He-M 1201.07 (l) above, to the medication committee pursuant to He-M 1201.11.

(e) The provider agency shall retain the documentation of reviews for at least 6 years, with the most current year kept in the individual's record.

He-M 1201.10 Designation of Nurse Trainers.

(a) The bureau administrator or designee shall, upon request, grant designation as a nurse trainer to any nurse licensed in New Hampshire who:

(1) Has 2 years of licensed nursing experience within the past 5 years, at least one of which was as a registered nurse;

(2) Has completed a 6-hour orientation program conducted by the bureau; and

(3) Is not under disciplinary action pursuant to RSA 326-B:37, III.

(b) The bureau administrator shall, upon request by the provider agency, grant a 45-day conditional designation as a nurse trainer to registered nurses who fulfill the requirements of (a)(1) and (3) above but have not yet completed the orientation required by (a)(2) above.

(c) A registered nurse granted conditional designation shall not authorize or re-authorize providers to administer medications but may supervise currently authorized providers.

(d) In order to maintain designation as a nurse trainer, the nurse trainer shall include one contact hour of continuing education specific to the field of developmental disability or acquired brain disorder as a part of his or her 2-year nursing license renewal cycle.

(e) Contact hours shall include, but not be limited to, one or more of the following:

(1) An independent study course;

(2) Continuing medical education; or

(3) College courses.

(f) Nurse trainers shall maintain proof of completion of contact hours pursuant to (d) above for a minimum of 4 years.

(g) The bureau shall conduct unscheduled audits to determine if nurse trainers are meeting the requirements identified in (d) above.

He-M 1201.11 Medication Committee.

(a) The bureau administrator shall appoint a medication committee to review information summarized and submitted on forms required by (g) below.

(b) The committee shall be composed of at least the following:

(1) The medical director of the bureau or physician designee who shall serve as chairperson of the committee;

(2) Two registered nurses from provider agencies;

(3) Two non-nurse representatives from provider agencies; and

(4) A representative of the bureau.

(c) Each provider agency shall complete and submit to the area agency Form 1201-A "Six Month Nurse Trainer Report to NH Bureau of Developmental Services Medication Committee – For Programs with Reportable Errors" (May 2020), or Form 1201-A Short "Programs Without Reportable Errors - Six Month Nurse Trainer Report to NH Bureau of Developmental Services Medication Committee" (May 2020) and Form 1201-B "Six Month Provider Agency Report to NH Bureau of Developmental Services Medication Committee" (May 2020) according to Table 12.1.1 for each service in which authorized providers administer medications.

(d) Using Form 1201-C "Six Month Area Agency Report to NH Bureau of Developmental Services Medication Committee" (May 2020), an area agency shall report on each provider agency's performance regarding medication administration based on the information submitted through Form 1201-A and Form 1201-B.

(e) Area agencies shall submit reports prepared on Forms 1201-A, 1201-B, and 1201-C to the bureau.

(f) Area agencies and provider agencies shall submit reports in accordance with Table 12.1.1 below:

Table 12.1.1
Submission of Six Month Reports to the NH Bureau of Developmental Services

Regions:	Report Period:	Provider Agency Report Due:	Area Agency Report Due:
1 and 2	July 1 - December 31	January 15	January 31
1 and 2	January 1 - June 30	July 15	July 31
3 and 4	August 1 - January 31	February 15	February 28
3 and 4	February 1 - July 31	August 15	August 31

5 and 6	September 1 - February 28	March 15	March 31
5 and 6	March 1 - August 31	September 15	September 30
7 and 8	October 1 - March 31	April 15	April 30
7 and 8	April 1 - September 30	October 15	October 31
9 and 10	November 1 - April 30	May 15	May 31
9 and 10	May 1 - October 31	November 15	November 30

(g) The medication committee shall evaluate reports submitted pursuant to (f) above.

(h) Upon evaluation of reports submitted pursuant to (f) above, the medication committee shall:

(1) Recommend that the bureau administrator accept the report if, as demonstrated by the reports, the area agency or provider agency has complied with the provisions of He-M 1201;

(2) Request that additional information be submitted by the area agency; and

(3) Identify areas of non-compliance, as demonstrated by the reports, for those area agencies or provider agencies that failed to comply with the provisions of He-M 1201, and make recommendations:

a. To the area agency regarding plans for monitoring, oversight, and quality improvement; and

b. To the bureau administrator for corrective actions to be taken by those area agencies or provider agencies identified.

(i) The bureau administrator shall:

(1) Review all recommendations for corrective action made pursuant to (j)(3) above;

(2) Require the area agency or provider agency to take corrective action if he or she determines that the action is necessary for the area agency or provider agency to be in compliance with the provisions of He-M 1201; and

(3) Send written notification of the required corrective actions in (2) above to the area agency or provider agency.

(j) Within 30 days of the date of the written notification in (h)(3) above, the area agency or provider agency shall forward the corrective action plan to the medication committee and fully implement the plan.

He-M 1201.12 Revocation.

(a) The bureau administrator shall revoke the designations of those nurse trainers and authorizations to administer medications of those providers in programs where corrective action has been required, under the following circumstances:

(1) An agency fails to submit a corrective action plan to the bureau administrator pursuant to He-M 1201.11 (j);

(2) An agency submits a corrective action plan which fails to satisfy the criteria specified by the bureau administrator pursuant to He-M 1201.11 (i); or

(3) An agency fails to completely implement a corrective action plan within 30 days.

(b) Upon revocation, the bureau administrator shall issue written notice that:

(1) States the reasons for the revocation; and

(2) Informs the nurse trainer or provider of the right to appeal the decision as described in He-M 1201.13 (a).

(c) Absent an appeal, the designation of nurse trainer or authorized provider shall be revoked following the provision of the 30 days' written notice.

(d) The bureau administrator shall withdraw a notice of revocation if, within the notice period, the area agency or provider agency complies with or, in the judgment of the bureau administrator, has made progress toward complying with the corrective action required by He-M 1201.11 (i)(2).

(e) The bureau administrator's decision to revoke designation or authorization may be appealed pursuant to He-M 1201.13.

(f) If an appeal of the decision is filed, the revocation shall be postponed pending final action on the appeal.

He-M 1201.13 Appeals.

(a) A request for appeal pursuant to He-M 1201.12 (e) shall be submitted in writing to the bureau administrator in care of the department's office of client and legal services within 10 days following the date of the notification of revocation of authorization of a provider to administer medication or designation of a nurse trainer.

(b) The bureau administrator or his or her designee shall immediately forward the request to the administrative appeals unit which shall assign a presiding officer to conduct a hearing or independent review.

(c) Appeals shall be conducted in accordance with He-C 200.

He-M 1201.14 Waivers.

(a) An area agency, provider agency or individual may request a waiver of specific procedures outlined in this chapter, in writing, from the department.

(b) The entity requesting a waiver shall:

(1) Complete the form entitled "NH Bureau of Developmental Services Request for Waiver to He-M 1201" (May 2020 edition) certifying that policies and procedures are in place for:

a. Nurse trainer oversight of authorized staff; and

b. Communication protocols between day and residential services; and

(2) Include a signature from the individual(s) or legal guardian(s) indicating agreement with the request and the area agency's executive director or designee recommending approval of the waiver.

(c) All information entered on the forms described in (b) above shall be typewritten or otherwise legibly written.

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

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

(1) Does not negatively impact the health or safety of the individual(s); and

(2) Does not affect the quality of services to the individual(s).

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

(g) Upon receipt of approval of a waiver request, the area agency's, individual's, or provider agency's subsequent compliance with the alternative provisions or procedures approved in the waiver shall be considered compliance with the rule for which waiver was sought.

(h) Waivers shall be granted in writing for the minimum period necessary to accomplish the waiver request's purpose, with the specific duration not to exceed 5 years.

(i) All waivers related to certified settings shall end with the termination of certification.

(j) An area agency, provider agency or individual may request a renewal of a waiver from the department. Such request shall be made at least 90 days prior to the expiration of a current waiver.

(k) A request for renewal of a waiver shall be approved in accordance with the criteria specified in (e) above.

APPENDIX

Rule	**Specific State or Federal Statutes or Regulations which the Rule Implements**
He-M 1201.01-1201.02	RSA 171-A:4; 126-A:19; 20; RSA 326-B:28
He-M 1201.03	RSA 171-A:4; 126-A:19; 20
He-M 1201.04	RSA 171-A:4; 126-A:19; 20, RSA 326-B:28
He-M 1201.05-1201.14	RSA 171-A:4; 126-A:19; 20; RSA 326-B:28
He-M 1201.01-1201.13	RSA 126-A:19; RSA 135-C:3