

NEW HAMPSHIRE RULEMAKING REGISTER

OFFICE OF LEGISLATIVE SERVICES

ROOM 219, STATE HOUSE ANNEX
25 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6312
Tel. (603) 271-3680
Website: www.gencourt.state.nh.us/rules/index.html

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VOLUME XXXIX, Number 46, November 14, 2019

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NOTE: POSSIBLE RULE EXTENSION

If the proposed rules contain existing, regular rules being readopted or readopted with amendments, and are not adopted and effective until after the expiration date(s) of the existing rules(s), then the existing rules will nevertheless continue in effect pursuant to RSA 541-A:14-a until the proposed rules are adopted and effective.

2. COMMITTEE (JLCAR)

REGULAR MEETING: Thursday, November 21, 2019 9:00 a.m.

Rooms 306/308, Legislative Office Building

CONTINUED MEETING: Thursday, December 5, 2019 9:00 a.m.

Rooms 306/308, Legislative Office Building

a. List of Final Proposals, Proposed Interim Rules, and Objection Responses for Review 20



THANKSGIVING HOLIDAYS



Publication of November 28, 2019 Rulemaking Register

Thursday, November 28 and Friday, November 29 are state holidays. The <u>Register</u> that week will be published on Wednesday, November 27.

Deadline for November 28, 2019 Rulemaking Register

The deadline for filing rulemaking notices to be published in the December 5 Register will be the end of work day Wednesday, November 27.

JLCAR MEETING DATES AND RELATED FILING DEADLINES NOVEMBER-DECEMBER, 2019

The JLCAR has voted to hold its regularly scheduled monthly meetings for November through December, 2019 on the <u>third Thursday</u> of the month as listed below. The minimum 14-day "deadline" prior to the regular JLCAR meeting is listed for agencies to file final proposals or proposed interim rules for placement on the JLCAR agenda pursuant to RSA 541-A:12, I and RSA 541-A:19, V. The JLCAR has also scheduled continued meetings as listed below on select Thursdays to address any items postponed from the prior regular meetings.

Regular	Meeting
Filing D	eadline

Regular Meeting Date **Continued Meeting**

Date

November 21

December 5

December 5

December 19

None

Notices of Proposed Rules

	Notice			
	Number	Rule Number	Agency and Short Title of Rule	Page No.
	2019-195	Vet 100-200	Board of Veterinary Medicine Organizational Rules and Rules of Procedure of the Board of Veterinary Medicine.	1
	2019-196	Vet 300 - 1000	Board of Veterinary Medicine Rules of the Board of Veterinary Medicine Vet 300-1000.	4
	2019-197	He-W 531	Department of Health and Human Services Former Division of Human Services Physician Services.	8
	2019-198	Saf-C 2900	Department of Safety, Commissioner Substance Abuse Reduction Initiative	11
		16	Notices of Proposed Interim Rules	
	Interim Notice			
	Number	Rule Number	Agency and Short Title of Rule	Page No.
(II)	VT 2019-30)	Saf-C 9005.01(a)	Department of Safety, Commissioner Breath Testing Additional Test Interim.	13
(I)	NT 2019-31)	He-C 6910.17(b) and (g)	Department of Health and Human Services, Commissioner Child Care Scholarship Standard Rate Methodology.	15
(II)	NT 2019-32)	He-C 6918.04	Department of Health and Human Services, Commissioner Child Care Billing and Payment Requirements.	18

Notice Number 2019-195	Rule Number	Vet 100-200
Agency Name & Address: Board of Veterinary Medicine	2. RSA Authority:	RSA 332-B:7- a, VIII-IX; RSA 541-A:16,I (a),(b),(c), and (d)
c/o Division of Animal Industry State House Annex 25 Capitol Street – Room 220 Concord, NH 03301	3. Federal Authority: 4. Type of Action: Adoption Amendment Repeal Readoption Readoption w/s	N/A X amendment X

6. (a) Summary of what the rule says and of any proposed amendments:

This proposal implements the organizational rules and procedures of the Board of Veterinary Medicine, pursuant to RSA 332-B, in Vet 100 and Vet 200, respectively. The purpose of the rules of the Board is to promote public health, safety, and welfare by safeguarding the people of New Hampshire against incompetent, unscrupulous, and unauthorized persons and from unprofessional or illegal practices.

This proposal re-adopts with amendments Vet 100, Organizational Rules; Vet 201, Filing of Complaints; and Vet 202, Disciplinary Hearings. The amendments expand the list of definitions and expand the information required in both a response to a statement of allegations and an investigator's report to the Board.

This proposal re-adopts Vet 203, Vet 204, and Vet 205 relative to petitions for rulemaking, the public comment hearing process, and declaratory rulings.

The proposal also re-adopts Vet 206, Explanation of Adopted Rules, which is currently an interim rule which is scheduled to expire 1-28-20.

6. (b) Brief description of the groups affected:

The regulation of veterinary medicine affects those practicing veterinary medicine, those employed by veterinarians, and those animal owners seeking the services of veterinarians.

These rules support RSA 332-B, the purpose of which is to promote public health, safety, and welfare by safeguarding the people of New Hampshire against incompetent, unscrupulous, and unauthorized persons and from unprofessional or illegal practices.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule	State Statute
Vet 101.01 thru 101.02	RSA 332-B:7, I, II, & IV
Vet 102.01 thru 102.02	RSA 332-B:1
Vet 103.01	RSA 332-B:3, I
Vet 103.02 thru 103.03	RSA 332-B:5
Vet 103.04	RSA 332-B:7, VI
Vet 104.01	RSA 91-A:4
Vet 104.02	RSA 332-B:7-a, VII

NN 2019-195 Continued

(Item 6.(c) Appendix Table continued)

Vet 201.01	RSA 332-B:7, IV, and RSA 332-B:14
Vet 201.02 thru 201.05	RSA 332-B:15, I, II, & III
Vet 201.06	RSA 332-B:15, I, & II
Vet 201.07	RSA 332-B:15-a, I
Vet 202.01 thru 202.04	RSA 541-A:30, III
Vet 202.05	RSA 332-B:16, III(a),(b)
Vet 202.06	RSA 541-A:30, III
Vet 202.07	RSA 332-B:16, IV
Vet 202.08 thru 202.09	RSA 541-A:30, III
Vet 202.10	RSA 332-B:16, I, II(a), & VI
Vet 202.11 thru 202.12	RSA 541-A:32
Vet 202.13 thru 202.14	RSA 541-A:30, III
Vet 202.15	RSA 332-B:7, IV
Vet 202.16	RSA 91-A:2, II
Vet 203.01 thru 203.02	RSA 541-A:4, I-V
Vet 204.01 thru 204.05	RSA 541-A:11, I-V; RSA 541-A:16, I(b)(3)
Vet 205.01 thru 205.05	RSA 541-A:16, I (a) and (d)
Vet 206.01 thru 206.02	RSA 541-A:11, VII

7.	Contact pe	erson for copies and questions inclu	ding requests to accomi	nodate persons with disabilities.
	Name:	Stephen K. Crawford, DVM	Title:	State Veterinarian, ex officio Board member
	Address:	Dept. of Agriculture, Markets,	& Food Phone #:	271-2404
		Division of Animal Industry State House Annex	Fax#:	271-1109
		25 Capitol Street – Room 220 Concord, NH 03301	E-mail:	Stephen.crawford@agr.nh.gov
			TTY/TDD or dial 711	Access: Relay NH 1-800-735-2964 (in NH)
8.	Deadline specified:		ng or, if practicable for t	the agency, in the electronic format
	⊠ Fax	E-mai	1	Other format (specify):
9.	Public hea	aring scheduled for:		

January 15, 2020, 9:30 am

State House Annex, Room 405

25 Capitol Street, Concord, NH 03301

Date and Time:

Place:

NN 2019-195 Continued

10.	Fiscal	Impact State	ment (Prepare	ed by Legi	slative Budg	get Assistant)
			(b			,

FIS # ______, dated _____10/28/19

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There is no difference in cost when comparing the proposed rules to the existing rules.

2. Cite the Federal mandate. Identify the impact on state funds: No federal mandate, no impact on state funds.

- 3. Cost and benefits of the proposed rule(s):
 - A. To State general or State special funds: None.
 - **B.** To State citizens and political subdivisions: None.
 - C. To independently owned businesses: None.
- 11. Statement Relative to Part I, Article 28-a of the N.H. Constitution: These rules do not violate Part I, Article 28-a of the NH Constitution. The rules neither mandate nor assign any responsibility or cost to any political subdivision.

Notice Number 2019-196	Rule Number	Vet 300-1000	
Agency Name & Address:	2. RSA Authority:	RSA 332-B:7-a, I-VII, X-XV	
Board of Veterinary Medicine c/o Division of Animal Industry	3. Federal Authority:	N/A	
State House Annex	4. Type of Action:		
25 Capitol Street - Room 220	Adoption	X	
Concord, NH 03301	Amendment		
	Repeal	X	
	Readoption	X	
	Readoption w/amendment	X	

6. (a) Summary of what the rule says and of any proposed amendments:

This proposal implements the standards and procedures of the Board of Veterinary Medicine, pursuant to RSA 332-B, in Vet 300 through Vet 1000, the purpose of which is to promote public health, safety, and welfare by safeguarding the people of New Hampshire against incompetent, unscrupulous, and unauthorized persons and from unprofessional or illegal practices.

Most of the existing rules in Vet 300-Vet 700 are interim rules which are scheduled to expire 1-28-20.

The proposal readopts with amendments Vet 301 through 303 regarding Application Procedures, Oualifications, and Examination.

The proposal repeals the existing Vet 304, Reciprocity.

The proposal readopts with amendments Vet 305, Temporary Permit, and renumbers it as Vet 304. The proposal also readopts with amendments Vet 306, Fees, and renumbers it as Vet 305.

The proposal readopts with amendments Vet 400, Continued Status.

The proposal readopts with amendments Vet 501.01 and Vet 501.02 regarding the Principles of Veterinary Medical Ethics.

The proposal readopts with amendments Vet 502.01 and renames the section as Emergency Coverage and After Hours Care.

The proposal readopts with amendments Vet 601, Acupuncture. The proposal readopts Vet 602, Embryo Transfers.

The proposal readopts with amendments Vet 700, Veterinary Medical Records.

Proposed changes include requiring the use of the applicant's legal name for licensing; reconsideration of what criminal convictions can affect licensing; clarification of the temporary permitting process; increased licensing fees and fees for certain records while eliminating late fees; submission of public discipline to the American Association of State Veterinary Boards; clarified requirements for reporting of continuing education; clarified provisions for emergency and after hours care; and clarification of expected record-keeping standards.

The proposal also adopts new rules Vet 306, Reinstatement of an Expired License; Vet 501.03, Veterinary Specialists; Vet 502.02, After Hours Care; Vet 503, Euthanasia; Vet 603, Telemedicine; Vet 800, Veterinary Nurses, Veterinary Technicians, and Veterinary Assistants; Vet 900, Dental Care; and Vet 1000, Opioid Management.

NN 2019-196 Continued

Proposed additions include clarification relative to addressing expired licenses; requiring the use of the applicant's legal name for licensing; restrictions on the use of specialty designations; reference to standards for euthanasia; clarification of allowable uses of veterinary nurses, technicians, assistants, and students; restrictions on veterinary dental care; and required acts related to opioid management.

6. (b) Brief description of the groups affected:

The regulation of veterinary medicine affects those practicing veterinary medicine, those employed by veterinarians, and those animal owners seeking the services of veterinarians.

These rules support RSA 332-B, the purpose of which is to promote public health, safety, and welfare by safeguarding the people of New Hampshire against incompetent, unscrupulous, and unauthorized persons and from unprofessional or illegal practices.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule	State Statute
Vet 301.01	RSA 332-B:9; RSA 318-B:41
Vet 301.02	RSA 332-B:7-a, I
Vet 302.01 and 302.02	RSA 332-B:9 & RSA 332-B:11
Vet 303.01 thru 303.03	RSA 332-B:10
Vet 304.01 and 304.02	RSA 332-B:12
Vet 305.01 thru 305.03	RSA 332-B:7, III
Vet 306.01	RSA 332-B:13, I
Vet 401.01	RSA 332-B:13, I, II, & III
Vet 401.02	RSA 332-B:13, III
Vet 402.01 thru 402.03	RSA 332-B:14, II, & III
Vet 403.01	RSA 332-B:13, III
Vet 404.01 and 404.02	RSA 332-B:13, I
Vet 405.01	RSA 332-B:7-a, X
Vet 501.01	RSA 332-B:9
Vet 501.02	RSA 332-B:9
Vet 501.03	RSA 332-B:7-a, VI
Vet 501.04	RSA 332-B:7-a, VI
Vet 502.01 and 502.02	RSA 332-B:7-a, VI
Vet 503.01	RSA 332-B:7-a, VI
Vet 601.01 thru 603.01	RSA 332-B:1, III
Vet 701.01 and 701.02	RSA 332-B:7-a,VI, & XII
Vet 801.01 thru 804.01	RSA 332-B:7-a, X
Vet 901.01	RSA 332-B:1, III
Vet 1001.01	RSA 332-B:7-a, XV

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: Stephen K. Crawford, DVM

Title:

State Veterinarian, ex officio

Board member

Address:

Dept. of Agriculture, Markets, & Food

Division of Animal Industry

State House Annex

25 Capitol Street - Room 220

Concord, NH 03301

Phone #:

271-2404

Fax#:

271-1109

E-mail:

Stephen.crawford@agr.nh.gov

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

NN 2019-196 Continued

8.	Deadline for submission of materials	in writing or, if practicable for the	e agency, in the electronic format
	specified: January 27, 2020		
	⊠ Fax	⊠ E-mail	Other format (specify):
	· · ·	_	
^			

9. Public hearing scheduled for:

Date and Time:

January 15, 2020, 9:30am

Place:

State House Annex, Room 405

25 Capitol Street, Concord, NH 03301

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

When compared to the existing rules, the proposed rules will increase costs to veterinary practices and increase revenue to the State general fund. Not applicable to Vet 306, Vet 501.03, Vet 502.02, Vet 503, Vet 603, Vet 800, Vet 900 and Vet 1000 which are new rules.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

The fees changes included in proposed Vet 305 will result in the following increases in general fund revenues:

Description	Amount of Increase	Annual Quantity	Total
Biennial License Renewal	\$200	430	\$86,000
Initial License	\$125	70	\$8,750
Copies of Laws and Rules	\$25	5	\$125
Replacement Certificate	\$40	5	\$200
License Verification	\$30	10	\$300
Insufficient Check Fee	\$15	1	\$15
Late Fee	\$50	25	\$1,250
Total Additional Annual Revenue			\$96,640

The Board assumes in the future, the additional revenue will pay for the creation of a full-time position to support board activities that are not currently supported by the operating budget.

There is no cost or benefit associated with new sections Vet 306, Vet 501.03, Vet 502.02, Vet 503, Vet 603, and Vet 900. The Board assumes the proposed Vet 800 rules, which distinguish between veterinary assistants and veterinary technicians, will result in savings to practices that employ technicians but don't utilize them to the full extent of their training. The Vet 800 rules could result in additional costs to certain veterinary practices that could no longer use un-credentialed staff for certain tasks. The Board indicates the requirements in Vet 1000 regarding opioid management will result in additional costs to veterinary practices, however such costs are attributable to RSA 318-B and RSA 332-B:7-a, XV and not the proposed rules.

NN 2019-196 Continued (Item10.(A) continued)

A. To State general or State special funds:

See #3 above. No impact on any State special fund.

B. To State citizens and political subdivisions:

See #3 above. No impact on political subdivisions.

C. To independently owned businesses:

See #3 above.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution: These rules do not violate Part I, Article 28-a of the NH Constitution. The rules neither mandate nor assign any responsibility or cost to any political subdivision.

lle Number He-W 531
Authority: RSA 161:4-a, IX
al Authority:
of Action:
Adoption
amendment
Lepeal
leadoption X
teadoption w/amendment X

5. Short Title: Physician Services

6. (a) Summary of what the rule says and of any proposed amendments:

He-W 531 prescribes the requirements for and describes the services available under the NH medicaid fee for service (FFS) program for physician services. The rule includes recipient eligibility requirements, provider participation requirements, service limits, and covered and non-covered services. This rule is effectively being readopted with amendment to avoid expiration for some provisions in He-W 531.01, and for He-W 531.02, 531.03, 531.04, and 531.09, which are otherwise scheduled to expire 11-14-19 but are subject to extension pursuant to RSA 541-A:14-a. The other portions of the rule are being submitted with the proposal so that the entire rule will have a single expiration date.

The proposed changes from the existing He-W 531 rule are as follows:

- Updating the rule for better clarity, program integrity, programmatic changes, and to be consistent with other Departmental rules;
- Updating the rule to clarify that the Department will be using the Interqual Connect Clinical Guidelines for services requiring prior authorization rather than the Milliman Care Guidelines because the Department no longer has access to those proprietary guidelines. Additionally, this change will provide consistency with the coverage criteria being used by Medicaid managed care organizations (MCOs) as they also use Interqual's criteria; and
- The utilization review and control section, He-W 531.08, has been updated to be consistent with recently adopted rules in terms of updated citations and clarifying that failure to comply will result in recoupments of Medicaid payments by the Department.
- 6. (b) Brief description of the groups affected:

The rule impacts all Medicaid recipients and enrolled physicians.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule Section	Federal or state statute or regulation implemented
He-W 531.01	42 USC 1396
He-W 531.02	42 CFR 440.210, 42 CFR 440.220 & 42 CFR 440.225
He-W 531.03	42 CFR 440.50
He-W 531.04	42 CFR 440.230 & 42 CFR 440.250
He-W 531.05	42 CFR 441.30; 42 CFR 441.35
He-W 531.06	42 CFR 440.230(d)
He-W 531.06(e)	RSA 541-A:21, VIII
He-W 531.07	42 CFR 440.230(d)
He-W 531.08	42 CFR 455; 42 CFR 456
He-W 531.09	42 CFR 433.139
He-W 531.10	42 CFR 447.15; RSA 161:4, VI(a)

NN 2019-197 Continued

7.	Contact p	erson for copies and questions including requ	ests to accom	modate persons with disabilities:		
	Name:	Kim Reeve, Esq.	Title:	Legal Counsel – Admin Rules		
	Address:	NH Dept. of Health & Human Services	Phone #:	271-9640		
		Administrative Rules Unit 129 Pleasant St.	Fax#:	271-5590		
		Concord, NH 03301	E-mail:	Kimberly.reeve@dhhs.nh.gov		
		TTY/TDD Access: Relay NH 1-80	00-735 - 2964 c	or dial 711 (in NH)		
		The proposed rules may be v	iewed and o	downloaded at:		
		http://www.dhhs.nh.gov	/oos/aru/cor	nment.htm		
8.		for submission of materials in writing or, if p December 18, 2019	racticable for	the agency, in the electronic format		
	⊠Fax	⊠E-mail		Other format (specify):		
9.	Public hea	aring scheduled for:				
	D	Pate and Time: December 11, 2019, 3:45 PM	М			
	P	lace: DHHS Brown Bldg., Audit	orium, 129 Pl	easant St., Concord, NH 03301		
10.	Fiscal Imp	pact Statement (Prepared by Legislative Budg	et Assistant)			
	FIS#	, dated	11/05/19			
1. Comparison of the costs of the proposed rule(s) to the existing rule(s):						
		compared to the existing rules, the proposed itizens and independently-owned businesses.	rules will hav	e an indeterminable impact on costs to		
	2. Cite t	he Federal mandate. Identify the impact o	n state funds	:		
	No fee	deral mandate, no impact on state funds.				
		and benefits of the proposed rule(s):				
	Conne guidel the ma individenchange given author result Millin	roposed rule clarifies that the Department of Rect clinical guidelines for services requiring princes previously in use. The Department expedinged care organizations (MCO) already util duals who are served by the fee-for-service (Fee. The Department notes that the FFS prograntime, and since the transition to managed care rization request under the rule. For this reason in coverage denials for FFS participants to the nan and Interqual standards, the Departments	rior authorizate this change ize Interqual (FS) program in serves approximately in 2013, FFS, although the extent that the	tion, as opposed to the Milliman Care to have a minimal fiscal impact, as guidelines, and there are relatively few and would therefore be subject to the eximately 1,000 individuals at any a Medicaid has received only one prior to new standard could theoretically here are differences between the		
	Α.	To State general or State special funds: None.				
	В.	To State citizens and political subdivision	18:			
		-				

As noted in response to (3) above, FFS participants could potentially experience coverage denials under the proposed rule, but the Department expects such instances to be rare and have minimal impact.

NN 2019-197 Continued

(Item 10.(C) continued)

C. To independently owned businesses:

The proposed rule states that the Department is authorized to recover federal or state Medicaid payments made pursuant to 42 CFR 455, 42 CFR 447, and 42 CFR 456. This provision will only impact providers to the extent that they are not aware of the requirements or are in noncompliance with them. In addition, the proposed rule inserts a citation for 42 CFR 1001, which describes the federal exclusions from participation in the Medicaid program. This provision is unlikely to impact providers, as it is already included in the agreement between providers and the Department.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposal does not mandate any fees, duties, or expenditures on the political subdivisions of the state, and therefore does not violate Part I, Article 28-a of the N.H. Constitution.

Notice Number 2019-198	Rule Number	Saf-C 2900
Agency Name & Address:	2. RSA Authority:	RSA 21-P:67
NH Department of Safety	3. Federal Authority:	n/a
33 Hazen Drive	4. Type of Action:	
Concord, NH 03301	Adoption	
	Amendment	
	Repeal	
	Readoption	X
	Readoption w/am	endment

6. (a) Summary of what the rule says and of any proposed amendments:

This proposal is a readoption without change of Chapter Saf-C 2900 on the law enforcement substance abuse reduction initiative, which is currently an emergency rule that is scheduled to expire on 3-21-20. The FY20/21 budget provided funding for local law enforcement to engage in additional drug enforcement efforts. The vehicle used for this was a grant program that previously targeted opioid enforcement. Because of changes in the 2019 legislative session to the language authorizing this program in Chapter 346:316 of the Laws of 2019, the Department engaged in emergency rule making to ensure that the local governments had sufficient time to mount an effort during this fiscal year. This proposal is the followup regular rule making proposal of the same rule as the previously submitted emergency rule which became effective 10-3-19.

6. (b) Brief description of the groups affected:

Local law enforcement agencies and multi-agency drug task forces.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule	Specific State Statute the Rule Implements
Saf-C 2901	RSA 21-P:66, I; RSA 541-A: 7
Saf-C 2902	RSA 21-P:66, I; RSA 541-A:7
Saf-C 2903	RSA 21-P:66, II
Saf-C 2904.01	RSA 21-P:66, II
Saf-C 2904.02	RSA 21:P-66, II (a)
Saf-C 2904.03	RSA 21-P:66, IV
Saf-C 2904.04	RSA 21-P:66, I
Saf-C 2905	RSA 21-P:66, V
Saf-C 2906	RSA 21-P:66, III
Saf-C 2907	RSA 21-P:66, III
Saf-C 2908	RSA 21-P:66, I
Saf-C 2909	RSA 21-P:66, I
Saf-C 2910	RSA 91-A:4; RSA 91-A:5

NN 2019-198 Continued

7.	Contact pe	erson for copies	and questions including	requests to accomi	modate persons with disabilities:
	Name:	Keith Lohman	n	Title:	Program Specialist IV
	Address:	33 Hazen Dri	ve Room 209	Phone #:	603-223-3852
		Concord NH	03301	Fax#:	603-271-1033
				E-mail:	keith.lohmann@dos.nh.gov
				TTY/TDD or dial 711	Access: Relay NH 1-800-735-2964 (in NH)
8.			of materials in writing or, 2019 4:15 pm	if practicable for	the agency, in the electronic format
	☐ Fax	al	⊠ E-mail		Other format (specify):
9.	Public hea	aring scheduled	for:		
	D	ate and Time:	December 12, 2019 3:0	00 pm	
	P	lace:	Department of Safety 33 Hazen Drive 2 nd Floor Conference l Concord NH 03301	Room	
10.	Fiscal Imp	oact Statement (1	Prepared by Legislative B	Budget Assistant)	
	FIS#	2019:1	, dated	10-22-2019	
	1.	Comparison o	f the costs of the propos	sed rule(s) to the o	existing rule(s):
		There is no dif	ference in cost when com	paring the propose	ed rules to the existing rules
	2.	Cite the Feder	al mandate. Identify th	e impact on state	funds:
		No federal man	ndate, no impact on state	funds.	Ÿ
	3.	Cost and bene	fits of the proposed rule	e(s):	
		A. To State g	general or State special	funds:	
		None.			
		B. To State of	itizens and political sub	divisions:	
		None.			
		C. To indepe	endently owned business	ses:	
		None.			
11.	Statement	Relative to Part	I, Article 28-a of the N.H	I. Constitution:	
	_	_	lo not create a new prog responsibility to any pol	· -	oility or expand or modify an
	2. The p	roposed rules d	lo not mandate or assign	ı a program or re	sponsibility to any political

- 2. The proposed rules do not mandate or assign a program or responsibility to any political subdivision of the state in such a way as to increase the costs the political subdivision must pay.
- 3. No state funding is necessary because the proposed rules do not mandate or assign a program or responsibility to any political subdivision so as to increase the costs the political subdivision must pay.

Pro	oposed Interim I	Rule Number	2019-30	Rule Number	er Saf-C 9005.01(a)
1.	Agency Name NH Departme 33 Hazen Driv Concord, NH	nt of Safety ve	2. 3. 4.	RSA Authority: Federal Authority: Type of Action: Adoption Amendment Repeal Readoption Readoption w/a	RSA 265-A:7, III n/a X amendment
6.	Short Title:	Breath Testing Addition	al Test Inte	rim	
7.	Contact person	for copies and questions in	cluding requ	lests to accommodat	e persons with disabilities:
	Name: Address:	Keith H. Lohmann 33 Hazen Drive Room 26 Concord, NH 03301	09	Phone #: Fax#: E-mail:	Program Specialist IV 603-227-0040 603-271-1033 Keith.lohmann@dos.nh.gov ccess: Relay NH 1-800-735-711 (in NH)

8. Summary explaining the effect of the rule:

Pursuant to RSA 541-A:19, I(a), this proposed interim rule changes the process for additional breath testing to be consistent with the 2019 amendment to RSA 265-A:7, III by Chapter 119 of the Laws of 2019, effective 8-20-2019, which changed the sequence of when a law enforcement officer is required to notify an arrestee of the procedure for an additional test to be <u>after</u> the initial breath test has been performed by law enforcement. This same rule is under a regular rulemaking process, and a public hearing under that process was held on October 31, 2019.

9. Listing of people, enterprises, and government agencies affected by the rule:

Persons arrested for driving while impaired, law enforcement officers who made the initial arrest and have the arrestee in custody.

10. Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement.

Rule	Statute
Saf-C 9005.01(a)	RSA 265-A:5; RSA 265-A:7; RSA 265-A:8, I

11. Summary of the effect upon the state if the rule were not adopted:

The rule as currently written would be inconsistent with the statute as amended.

12. Proposed date of review by the Joint Legislative Committee on Administrative Rules: November 21, 2019.

INT 2019-30 Continued

13. The fiscal impact statement prepared by the Legislative Budget Assistant, if appl	olicable.
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1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There is no difference in cost when comparing the proposed interim rule to the existing rule.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3 Cost and benefits of the proposed rule(s):

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None

C. To independently owned businesses:

None.

Pro	oposed Interim Rule Number 2019-31		Rule Num	He-C 6910.17(b) and (g)			
1.	Agency Name & Address:	2.	RSA Authority:	RSA 167:83, II(o);			
	Dept. of Health & Human Services Division of Economic and Housing Stability 129 Pleasant Street Concord, NH 03301	3. 4.	Federal Authority Type of Action: Adoption Amendment Repeal	X			
5.	Filing Date: November 7, 2019		Readoption Readoption w	/amendment			
6. Short Title: Child Care Scholarship Standard Rate Methodology							
7.	7. Contact person for copies and questions including requests to accommodate persons with disabilities:						
Na	me: Allyson Zinno		Title: Admi	nistrative Rules Coordinator			
Address: NH Dept. of Health & Human Service		es	Phone #: 271-9	604			
	Administrative Rules Unit 129 Pleasant Street		Fax#: 271-5	590			
	Concord, NH 03301		E-mail: <u>allyso</u>	n.zinno@dhhs.nh.gov			

TYY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

The proposed rules may be viewed and downloaded at: http://www.dhhs.nh.gov/oos/aru/comment.htm

8. Summary explaining the effect of the rule:

He-C 6910 establishes the criteria for a 12-month employment-related child care scholarship which enables families to prepare for, secure, or maintain employment, and to support healthy child development for those families who meet and continue to meet the program requirements of He-C 6910. He-C 6910 also establishes the payment amounts for an employment related child care scholarship.

In accordance with 65 E(c)(2)(M); 98.16(X) the Department of Health and Human Services (Department) is required to develop and implement strategies to increase the supply of and to improve the quality of child care services for children in underserved areas: infants and toddlers; children with disabilities; and children who receive care during non-traditional hours.

To attract new child care providers and with recruiting existing child care providers to serve more children with special needs, the Department proposes to amend He-C 6910.17 on the child care scholarship standard rate methodology as an interim rule pursuant to RSA 541-A:19, I(c) to conform with a federal requirement by amending paragraphs (b) and (g) respectively, on the weekly standard rates for licensed child care centers and family child care homes and on supplemental payments. The proposal increases the supplemental payment rate for a child experiencing significant special needs from \$50 to \$100 per week for a full time service level, from \$30 to \$75 per week for a half time service level, and from \$15 to \$50 per week for a part time service level.

In accordance with 98.16(a) the Department must certify that NH child care scholarship payment rates are sufficient to ensure equal access for families utilizing child care services comparable to those provided by families not receiving assistance. Per the preamble 81 FR 67512, the payment rates must be established based on the most recent Market Rate Survey completed by the Department.

INT 2019-31 Continued

The Department establishes a maximum weekly standard rate to be paid to enrolled child care providers. The Department conducts a federally mandated survey every 2 years, known as the Market Rate Survey (MRS), of rates charged by licensed child care centers and licensed child care homes in New Hampshire. The Department's maximum payment rates for child care services are based on the rates from this survey. This survey was conducted in March 2018. The Department proposes rates for licensed child care centers and licensed child care homes from the 50th percentile to the 55th percentile of the most recent MRS age group. The payment rates for license-exempt family child care providers are set at 70% of the licensed family child care home standard rate for each age group. The payment rates for license-exempt centers are set at 50% of the licensed child care center standard rate. The Department proposes rates for infant and toddler age groups from the 50th percentile to the 60th percentile of the most recent MRS.

9. Listing of people, enterprises, and government agencies affected by the rule:

The proposed rules affect the child care providers who are enrolled to receive child care scholarship payments and families who require child care scholarship.

10. Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement.

Rule	Specific State or Federal Statutes or Regulations the Rule Implements
He-C 6910.17(b) and (g)	RSA 167:83, II(o)

11. Summary of the effect upon the state if the rule were not adopted:

If the interim rule were not adopted the Department would not be able to certify that NH Child Care Scholarship payment rates are sufficient to ensure equal access for families utilizing child care services comparable to those provided by families not receiving assistance and the payment rates would not be current based on the most recent market rate survey.

12. Proposed date of review by the Joint Legislative Committee on Administrative Rules:

November 21, 2019

13. The fiscal impact statement prepared by the Legislative Budget Assistant, if applicable.

FIS # 19:200 , dated November 4, 2019

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

When compared to the existing rule, the proposed interim rule may benefit state citizens and independently-owned businesses.

2. Cite the Federal mandate. Identify the impact of state funds:

Section 658E(c)(2)(M) of the Child Care and Development Block Grant (CCDBG) Act requires states to develop and implement strategies to increase the supply and improve the quality of child care services for the following: children in underserved areas; infants and toddlers; children with disabilities; and children who receive care during nontraditional hours. In addition, per 45 CFR 98.16(a), the state Department of Health and Human Services must certify that NH Child Care Scholarship payment rates are sufficient to ensure equal access to child care services comparable to those for families not receiving assistance. Per the preamble to FR 67512, the payment rates must be established based on the most recent market rate survey completed by the Department.

INT 2019-31 Continued

3. Cost and benefits of the proposed rule(s):

In an effort to comply with the mandates cited in (2) above, the Department proposes an interim rule that would:

- 1. Increase the supplemental payment rates for children experiencing significant special needs;
- 2. Increase rates for licensed child care centers and licensed childcare homes from the 50th percentile to the 55th percentile of the most recent market rate survey (MRS) age group; and
- 3. Increase rates for infant and toddler age groups from the 50th percentile to the 60th percentile of the most recent MRS.

Based on actual levels of service provision, the Department estimates that (1) will cost \$235,110 annually, (2) will cost \$2,161,362 annually, and (3) will cost \$58,447 annually. These cost estimates are for the current FY 2020/21 biennium only and would be funded exclusively with federal funds from the Child Care and Development Fund (CCDF) block grant. Accordingly, there would be no impact on state funds.

A. To State general or State special funds:

None. See response to (3) above.

B. To State citizens and political subdivisions:

The proposed rule may benefit recipient families by increasing payment rates and reducing out-of-pocket expenses, as well as providing increased access to child care.

C. To Independently owned businesses:

The proposed rule may benefit child care providers by providing increased reimbursement rates, thereby enhancing rates for existing providers and potentially increasing the supply of additional providers.

Pro	oposed In	terim Rule Number	2019-32	Rule Num	ber He-C 6918.04(g)-(x)
1.	Dept. of Division 129 Ples	Name & Address: Health & Human Service of Economic and Housing asant Street d, NH 03301	1 4	Federal Authority Type of Action: Adoption Amendment Repeal	
5.	Filing D	ate: November 7, 2019	×	Readoption Readoption w	X v/amendment
6.	Short Ti	tle: Child Care Billing	and Payment Re	equirements	
7. Contact person for copies and questions including requests to accommodate persons with disabilities: Name: Allyson Zinno Title: Administrative Rules Coordinator Address: NH Dept. of Health & Human Services Phone #: 271-9604					
Administrative Rules Unit 129 Pleasant Street Concord, NH 03301		it	Fax#: 271-5 E-mail: <u>allyso</u>	5590 on.zinno@dhhs.nh.gov	

TYY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

The proposed rules may be viewed and downloaded at: http://www.dhhs.nh.gov/oos/aru/comment.htm

8. Summary explaining the effect of the rule:

He-C 6918 identifies the requirements that enrolled child care providers must meet to bill the Department of Health and Human Services (DHHS) and receive payment for child care services provided through the New Hampshire child care scholarship program.

In accordance with 65 E(c)(2)(M); 98.16(X) DHHS is required to develop and implement strategies to increase the supply of and to improve the quality of child care services for children in underserved areas to include infants and toddlers, children with disabilities, and children who receive care during non-traditional hours.

To attract new child care providers along with recruiting currently enrolled child care providers to serve more children and families eligible to receive a NH child care scholarship, the DHHS proposes to amend He-C 6918.04 as an interim rule pursuant to RSA 541-A:19, I(c) to conform with a federal requirement by amending paragraph (g), inserting new paragraphs (h), (i), (j), and (k), and re-lettering the existing paragraphs. The proposal allows enrolled DHHS child care providers to be paid, per calendar year, for Thanksgiving day, Christmas day, New Year's day, twelve hours of staff professional development, and twelve hours of program closures. Additionally, enrolled providers can also be paid for federal, state, and DHHS administrator-declared disaster closures.

9. Listing of people, enterprises, and government agencies affected by the rule:

The proposed rule affects the licensed and license-exempt child care providers who receive financial reimbursement from the department of health and human services (DHHS) for those families utilizing employment-related, preventive or protective child care services.

INT 2019-32 Continued

10. Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement.

RULE	STATUTE TO BE IMPLEMENTED
He-C 6918.04(g)-(x)	RSA 167:83, II(o)

11. Summary of the effect upon the state if the rule were not adopted:

If the interim rule were not adopted, the Department's rules would not be compliant with the requirement to develop and implement strategies to increase the supply of and to improve the quality of child care services for children in underserved areas to include infants and toddlers, children with disabilities, and children who receive care during non-traditional hours.

12. Proposed date of review by the Joint Legislative Committee on Administrative Rules: November 21, 2019

13. The fiscal impact statement prepared by the Legislative Budget Assistant, if applicable.

FIS # 19:201 , dated November 5, 2019

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

When compared to the existing rule, the proposed interim rule may benefit state citizens and independently-owned businesses.

2. Cite the Federal mandate. Identify the impact of state funds:

Section 658E(c)(2)(M) of the Child Care and Development Block Grant (CCDBG) Act requires states to develop and implement strategies to increase the supply and improve the quality of child care services for the following: children in underserved areas; infants and toddlers; children with disabilities; and children who receive care during nontraditional hours.

3. Cost and benefits of the proposed rule(s):

In an effort to comply with the mandate cited in (2) above, the Department proposes an interim rule that would allow enrolled child care providers to be paid, per calendar year, for Thanksgiving Day, Christmas Day, New Year's Day, 12 hours of staff professional development, and 12 hours of program closures. Additionally, enrolled providers would also be paid for federal, state, and DHHS administrator-declared disaster closures.

Based on actual levels of service provision, the Department estimates that the above proposals will cost \$951,792 annually. This cost estimate is for the current FY 2020/21 biennium only and would be funded exclusively with federal funds from the Child Care and Development Fund (CCDF) block grant. Accordingly, there would be no impact on state funds.

A. To State general or State special funds:

None. See response to (3) above.

B. To State citizens and political subdivisions:

To the extent that the proposed changes result in increased child care service provision, the rule may benefit recipient families by increasing access to child care.

C. To Independently owned businesses:

The proposed rule will benefit child care providers by providing payment for closure days.

FINAL PROPOSALS FOR COMMITTEE REVIEW ON NOVEMBER 21, 2019

Final Proposal #	Rule Number	Agency and Short Title of Rule
2019-89	Saf-C 2203.02, 2203.04, 2204.02 and 2205.01(a)	Department of Safety, Commissioner Licensing of Private Investigators, Security Guards, and Bail Recovery Agents.
2019-92	Liq 1100	Liquor Commission Direct Shipping.
2019-95	Rev 1200	Department of Revenue Administration Low and Moderate Income Homeowners Property Tax Relief.
2019-101	He-E 501	Department of Health and Human Services Division of Elderly and Adult Services Social Services Block Grant (Title XX).
2019-103	Rev 401.05, 402.02 intro. and (c), 405, 418.01(a) and (c)	Department of Revenue Administration Tax Credit for Combat Service.
2019-105	He-P 309	Department of Health and Human Services Former Division of Public Health Services Healthcare Associated Infections Reporting.
2019-124	He-P 813	Department of Health and Human Services Former Division of Public Health Services Adult Family Care Residences.
2019-130	Env-Hw 100 various sections	Department of Environmental Services Hazardous Waste Programs Hazardous Waste - Organization and Definitions.
2019-131	Env-Hw 203.03	Department of Environmental Services Hazardous Waste Programs Hazardous Waste - Procedural Rules for e-Manifests and Import/Export.
2019-132	Env-Hw 300-800, 1100, 1200 various sections	Department of Environmental Services Hazardous Waste Programs Hazardous Waste Amendments: E-Manifest-Related Revisions to Permits, Identification of Hazardous Waste, Generators, Transporters, Facility Owners/Operators, Recycling, Universal Waste, Land Disposal Restrictions.
2019-137	He-M 202	Department of Health and Human Services Former Div. of Mental Health &Developmental Svcs. Rights Protection Procedures for Developmental Services.
2019-139	Fis 400 various, 500 various, 1104.05	Fish and Game Department Island Fisheries and Fishing Tournament Rules.
2019-141	He-W 566	Department of Health and Human Services Former Division of Human Services Dental Services.

FINAL PROPOSALS FOR COMMITTEE REVIEW ON NOVEMBER 21, 2019

Final		
Proposal #	Rule Number	Agency and Short Title of Rule
2019-143	He-W 742.02(i)-(m)	Department of Health and Human Services Former Division of Human Services Homeless Shelter Deduction.
2019-146	Odb 100 and 200	Oil Fund Disbursement Board Oil Fund Disbursement Board - Definitions, Organizational and Procedural Rules.
2019-147	Odb 400	Oil Fund Disbursement Board Oil Fund Disbursement Board - Rules for Reimbursement.
2019-148	Pas 300 various sections	Passenger Tramway Safety Board Passenger Tramway Safety Rules.
2019-149	He-M 305.05	Department of Health and Human Services Former Div. of Mental Health &Developmental Svcs. Personal Safety Emergencies - Emergency Medication and Other Emergency Treatment.
2019-159	He-P 806.14(x), 823.14(o), 826.14(w) (various subparagraphs), and 826.17(t)	Department of Health and Human Services Former Division of Public Health Services Duties and Responsibilities of a Licensee and Medication Services.
2019-170	He-P 4034 various	Department of Health and Human Services Former Division of Public Health Services Radiation Safety Requirements for Industrial Radiographic Operations.
2019-171	He-P 4038 various	Department of Health and Human Services Former Division of Public Health Services The Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material.
2019-172	He-P 4040.06(i)	Department of Health and Human Services Former Division of Public Health Services Exemptions from Registration Fee.
2019-174	Saf-C 3200 various	Department of Safety, Commissioner Various Motor Vehicle Inspection Rules.

EXPEDITED REVISIONS TO AGENCY FORMS FOR COMMITTEE REVIEW ON NOVEMBER 21, 2019

Notice Number	Rule Number	Agency and Short Title of Rule
EXRF 2019-5	Form L-001 Li705.01(c)	Department of Liquor Request for Application (Mini-app)

PROPOSED INTERIM RULES FOR COMMITTEE REVIEW ON NOVEMBER 21, 2019

Proposed Interim #	Rule Number	Agency and Short Title of Rule
INT 2019-30	Saf-C 9005.01(a)	Department of Safety, Commissioner Breath Testing Additional Test Interim.
INT 2019-31	He-C 6910.17(b) and (g)	Department of Health and Human Services, Commissioner Child Care Scholarship Standard Rate Methodology.
INT 2019-32	He-C 6918.04	Department of Health and Human Services, Commissioner Child Care Billing and Payment Requirements.

PRELIMINARY OBJECTION RESPONSES FOR COMMITTEE REVIEW ON NOVEMBER 21, 2019 IF FILED PRIOR TO THE MEETING

Proposal #	Rule Number	Agency and Short Title of Rule
FP 2019-46	Med 300-600 various sections	Board of Medicine Licensure Requirements, Renewal Requirements, Ethical Standards, and Physician Assistant Rules.
FP 2019-74	Ph 2100	Pharmacy Board Inspections.
FP 2019-100	He-P 807	Department of Health and Human Services Former Division of Public Health Services Rules for Residential Treatment and Rehabilitation Facilities.
FP 2019-107	Ac 301.04, 301.05, 401.07	Board of Accountancy Application for Initial Certification, Reciprocity, and Return to Active Practice.

NOTICE OF ADOPTED RULES

Document # (Final Proposal)	Rule Number	Agency and Short Title of Rule	Effective Expires
12895 (Emergency)	Ed 322.09	Board of Education School Lease Aid.	10/10/2019 4/7/2020
12896 (Emergency)	Ed 1307	Board of Education Robotics Education Fund.	10/10/2019 4/7/2020
12897 (INT 2019-23)	Ed 505.01-505.05	Board of Education Qualifying Methods for Obtaining a Teaching Credential.	10/11/2019 4/8/2020
12898 (INT 2019-24)	Ed 507.40 and 507.41	Board of Education General Special Education Teacher and Early Childhood Special Education Teacher.	10/11/2019 4/8/2020
12899 (FP 2019-80)	Env-A 1200	Department of Environmental Services Air Related Programs Volatile Organic Compounds (VOCs) Reasonably Available Control Technology (RACT).	10/17/2019 10/17/2029
12900 (FP 2019-18)	Mhp 402.01(g)	Board of Mental Health Practice Continuing Education Requirements.	10/22/2019 10/22/2029
12901 (FP 2019-123)	He-W 693	Department of Health and Human Services Former Division of Human Services FANF Intentional Program Violations.	10/22/2019 10/22/2029
12902-A (FP 2019-126)	Env-C 202.07	Department of Environmental Services, Cross-Program Rules Definition of License. (As organizational rules they do not expire except pursuant to RSA 541-A:17, II).	10/22/2019
12902-B (FP 2019-126)	Env-C 209.07	Department of Environmental Services. Requests to Expedite Review of an Application.	10/22/2019 10/22/2029
12903 (FP 2019-102)	Env-Dw 1300	Department of Environmental Services Drinking Water Programs Administrative Procedures for Grants and Loans from the Drinking Water and Groundwater Trust Fund.	10/23/2019 10/23/2029
12904 (FP 2019-136)	Lab 1402.05 & 1403.04	Department of Labor Definitions & Accident Reporting Requirements for Fatality and Serious Injury.	10/23/2019 10/23/2029
12905 (FP 2019-138)	Rev 204.02(a), 204.03	Department of Revenue Administration Agency Action on Petitions for Redetermination or Reconsideration. (As practice and procedure rules they do not expire except pursuant to RSA 541-A:17, II).	10/23/2019

NOTICE OF ADOPTED RULES

Document # (Final Proposal)	Rule Number	Agency and Short Title of Rule	Effective Expires
12906 (FP 2019-150)	Rev 303.03(a) intro., (a)(2), & (e), 304.09(f)(2) intro., (f)(2)c. & d., 2402.01(a) intro. & (a)(7)	Department of Revenue Administration Business Tax Technical Corrections.	10/23/2019 10/23/2029
12907 (FP 2019-151)	Rev 700, 2300, 2500, 2700, 2900 (various sections and paragraphs)	Department of Revenue Administration First Rollout of Revenue Information Management System (RIMS).	10/23/2019 10/23/2029
12908 (INT 2019-29)	Saf-C 1200	Department of Safety, Commissioner Voluntary Certification of Fire Protection Equipment Technicians.	10/23/2019 4/20/2020
12909 (FP 2019-85)	Jus 1300	Department of Justice Land Sales Full Disclosure Rules.	10/24/2019 10/24/2029
12910 (FP 2019-86)	Jus 1400	Department of Justice Condominium Rules.	10/24/2019 10/24/2029
12911 (FP 2019-142)	He-C 6448	Department of Health and Human Services, Commissioner Child-Placing Agency Licensing Requirements.	10/24/2019 10/24/2029
12912 (FP 2019-125)	Ins 1807.01 (a) & (b) and 1813	Insurance Department Continuing Care Retirement Communities.	10/28/2019 10/28/2029
12913 (EXEMPT)	HFA 111	NH Housing Finance Authority Design and Construction Rules.	11/1/2019 Exempt
12914 (FP 2019-88)	Saf-C 500 various	Department of Safety, Commissioner Various NH Vehicle Registration Rules.	11/6/2019 11/6/2029