

Readopt with amendment Ve-H 300, effective 6-28-18 (Document #12564, Interim), to read as follows:

CHAPTER Ve-H 300 RESIDENCY AND ADMISSION TO NEW HAMPSHIRE VETERANS' HOME

PART Ve-H 301 DEFINITIONS

Ve-H 301.01 Definitions. The following terms shall have the following meanings:

(a) "Admissions committee" means a committee composed of the commandant, the director of resident care services, the medical director, the business administrator, and other home staff and individuals with the expertise required to evaluate the residency application under consideration;

(b) "Assets" means any property held by an applicant for residency, including real property, of more than de minimis value;

(c) "Commandant" means the chief operating officer of the New Hampshire veterans' home;

(d) "Home" means the New Hampshire veterans' home;

(e) "Income" means any periodic payment from any source received by an applicant for residency in the home or by a resident;

(f) "Legal representative" means any person designated in the manner required by law to act on behalf of the applicant for residency or resident, including:

(1) A guardian;

(2) A conservator; and

(3) A person acting pursuant to an applicable power of attorney;

(g) "Life enhancement dementia unit" means the residential unit addressing the needs of residents with Alzheimer's disease or other conditions of memory impairment; and

(h) "Pay" means to make payment by using any funds available, including funds pursuant to insurance policies.

PART Ve-H 302 ELIGIBILITY FOR RESIDENCY

Ve-H 302.01 Residency Eligibility Requirements. An applicant shall be eligible for residency in the home if the applicant meets the following requirements:

(a) Veterans who have served on active duty in the armed forces of the United States as defined by 38 U.S.C. section 101, or in reserve units or in the New Hampshire army or air national guard. ~~Ninety days of active military service during a time of war;~~

(b) Honorable discharge from military service;

(c) Legal residency in New Hampshire for at least one year immediately preceding the date of application; The one-year residency requirement shall be waived for the following veterans:
(1) A veteran whose DD214 certificate or any document used by the veterans' home for admission states a New Hampshire address as his or her home of record upon discharge from active duty.
(2) An active duty veteran who has a New Hampshire address as his or her home of record and who is being discharged directly from a medical facility.

(d) A need for care or supervision not exceeding the capabilities of the home's services and residential accommodations;

(e) Satisfaction of the medical eligibility standard set forth in Ve-H 303; and

(f) Satisfaction of the financial eligibility standards set forth in Ve-H 304.

PART Ve-H 303 MEDICAL ELIGIBILITY FOR RESIDENCY

Ve-H 303.01 Medical Eligibility Standard. A veteran shall meet the medical eligibility standard if he or she is incapable of earning a living because of age, disease, or infirmity.

PART Ve-H 304 FINANCIAL ELIGIBILITY FOR ADMISSION AND LIABILITY OF RESIDENTS FOR PAYMENT FOR ROOM AND BOARD

Ve-H 304.01 Financial Circumstances Affecting Eligibility for Residency.

(a) An applicant's or resident's financial circumstances shall affect ~~eligibility for residency~~ their financial contribution or their room & board financial contribution, as further set forth in Ve-H 304.02 and Ve-H 304.03.

(b) An applicant's or resident's financial circumstances shall affect required payments for room and board as further set forth in Ve-H 304.03 and Ve-H 304.04.

(c) The effects of an applicant's or resident's financial circumstances shall be the same whether or not an applicant or resident has a guardian with power over his or her financial affairs or a conservator.

Ve-H 304.02 Effect of Employment and Unemployment Compensation on Eligibility for Residency. An applicant shall not be eligible for residency so long as he or she is employed or receiving unemployment compensation.

Ve-H 304.03 Effect of Assets on Eligibility for Residency.

~~(a) Applicants whose assets, after the allowable spend-down described in Ve-H 304.04, exceed \$275,000 on the date of application for residency, or at any time during the 12 months immediately prior to the date of application, shall be financially ineligible for residency.~~

~~(a b)~~ Applicants whose assets, after the allowable spend-down described in Ve-H 304.04, are greater than \$30,000 ~~but do not exceed \$275,000~~ on the date of application for residency, or at any time during the 12 months immediately prior to the date of application, shall:

(1) Be permitted to retain their assets and be considered financially eligible on the condition that they pay full room and board charges net of any per diem reimbursement by the federal government; or

(2) Be permitted, after achieving resident status, to:

- a. Actively market and sell their assets;
- b. Pay any arrears in full room and board charges net of any per diem reimbursement by the federal government accrued during the period required to realize the proceeds of the sale of the assets; and
- c. Thereafter pay full room and board charges net of any per diem reimbursement by the federal government.

~~(e b)~~ Proof of active marketing of an asset pursuant to (b)(2)a. shall:

(1) Be submitted to the home when requested; and

(2) Consist in a copy of:

- a. A purchase and sale agreement;
- b. A listing with a commercial broker;
- c. A commercially published advertisement showing the asset to be for sale; or
- d. A printout of a sales listing on a website not belonging to the seller of the asset.

~~(d c)~~ Applicants whose assets are \$30,000 or less, after the allowable spend-down described in Ve-H 304.04, on the date of application for residency, or at all times during the 12 months immediately prior to the date of application, shall be permitted to retain their assets and be considered financially eligible on the condition that they pay for room and board in accordance with Ve-H 304.05.

~~(e d)~~ Assets held in the name of the applicant or resident shall be presumed to be those of the applicant or resident unless:

(1) The asset is:

- a. The applicant's or resident's only residential property; and
- b. The property is occupied by the applicant's or resident's:
 1. Spouse; or
 2. Person eligible to be listed as a dependent on the applicant's federal income tax return; or

(2) Shared ownership of the asset can be proven, and the applicant's or resident's ownership share can be precisely determined, on the basis of mortgage documents, court records, or other similar documents showing shared ownership.

Ve-H 304.04 Permissible Spend-Down. Before calculating an applicant's assets for the purpose of applying Ve-H 304.03(a), Ve-H 304.03(b) or Ve-H 304.03(d), the applicant shall be permitted to spend such sums as are required to pay:

- (a) The applicant's anticipated funeral expenses;
- (b) The costs of a one-time purchase of clothing needed by the applicant;
- (c) The outstanding medical bills of the applicant;
- (d) The costs of the applicant's stay in another long term care facility pending admission to the home; and
- (e) The costs of major repairs to the applicant's home, if the applicant's spouse intends to continue to occupy the home.

Ve-H 304.05 Liability of Residents for Payment for Room and Board.

- (a) Applicants described in Ve-H 304.03(d) shall make monthly payments for room and board:
 - (1) Based upon monthly income exclusive of any income paid the resident by the home for work in accordance with the resident's plan of care; and
 - (2) In accordance with the following calculation:
 - a. Exemption of \$100.00 from monthly income; and
 - b. After such exemption, 90% of monthly income, provided that:
 - 1. The resident's spouse shall not suffer financial hardship as described in Ve-H 304.06 as a result; and
 - 2. The payment shall not exceed full room and board charges net of any per diem reimbursement by the federal government.
- (b) Payments for room and board shall be due upon receipt of monthly income by the resident, the resident's guardian, or the resident's conservator.
- (c) Any amount of the resident's monthly income remaining after payment for room and board shall be deposited into the resident's administrative account unless the resident or the resident's guardian with power over the resident's financial affairs or the resident's conservator elects otherwise.
- (d) As proof of income, residents shall on an annual basis complete page 3A as further described in Ve-H 306.01(b)(4).

Ve-H 304.06 Spousal Hardship.

(a) A reduction in an applicant's or resident's payment pursuant to Ve-H 304.05(a)(2) may be granted if his or her spouse's necessary expenses exceed income.

(b) Such reduction shall take into account spousal need but not exceed a 25% reduction in the payment required by Ve-H 304.05(a)(2).

(c) The spouse's proof that necessary expenses exceed income shall be shown by the spouse's completion of, and notarized signature on, a "financial affidavit form" (effective date 07/16/18) provided by the home.

(d) The spouse's notarized signature on such "financial affidavit form" (effective date 07/16/18) shall certify that the information provided on the form is accurate and complete to the best of the spouse's knowledge and belief.

PART Ve-H 305 ADMISSIONS TO THE HOME AND ORDER OF PRIORITY IN ADMISSIONS

Ve-H 305.01 Admissions to the Home.

(a) An applicant determined eligible for residency shall be admitted promptly following his or her acceptance for residency unless:

~~(1) The applicant is assaultive and the only available residential accommodations would be placement with a roommate who would be at risk of injury if the applicant were admitted; or~~

~~(12) There is no current vacancy in the residential unit which would be medically appropriate for the eligible applicant.~~

(b) Eligible applicants not promptly admitted shall be:

(1) Placed in the pool of candidates for admission; and

(2) Admitted as soon as possible in accordance with these rules.

Ve-H 305.02 Admission Priorities. If there are more applicants eligible for residency in the general care unit or in the life enhancement dementia unit than there are current vacancies in the relevant unit, admissions shall take place according to the following order of priority:

(a) Eligible applicants who are homeless;

(b) Eligible applicants whose presence in their existing living environments present a danger of serious physical or psychological harm to the applicants or others; and

(c) Eligible applicants whose financial circumstances are inadequate to support themselves within their present living environments.

PART Ve-H 306 APPLICATION PROCEDURES

Ve-H 306.01 Application Procedures.

(a) Applicants for residency or their legal representatives shall apply by using an application packet consisting of the application pages described in (b) below and the documents described in (c) below.

(b) The application pages shall consist of the following:

(1) Page one, "NH veterans' home admission application" (effective date 07/16/18), requesting the following types of information:

- a. Personal;
- b. Military service; and
- c. Some medical and medical insurance;

(2) Page one-A, "legal and contact information" (effective date 03/17/08):

- a. Requesting the following types of information:
 1. Whether the applicant has executed specified legal documents;
 2. Whether the applicant is under guardianship or conservatorship; and
 3. Information about the applicant's spouse and contact persons; and
- b. Requiring a witnessed signature and the date of signing;

(3) Page 2, "final requests" (effective date 3/10/10), requesting information and giving instructions about arrangements in case of demise;

(4) Page 3A, "applicant's financial affidavit for NHVH" (effective date 07/16/18), requesting:

- a. The applicant's and the applicant's spouse's separate assets;
- b. Their joint assets;
- c. The applicant's alimony and child support obligations;
- d. Information about the applicant's long term care insurance; and
- e. The applicant's and the applicant's spouse's income from specified sources;

(5) Page 4, "New Hampshire veterans' home agreement form" (effective date 3/17/08), requiring below a preprinted statement:

- a. The witnessed signature of the applicant or the applicant's legal representative; and
- b. The date of signing;

(6) Page 5A, "state home program application for veteran care medical certification" (effective date 07/16/18), requiring completion by the applicant's physician;

(7) Page 5B, "medical information for NHVH admission application" (effective date 03/17/08), requiring completion by the applicant's physician and faxing of pertinent test results;

(8) Page 6, "release of information" (effective date 10/19/17):

- a. Giving the applicant's permission for the medical providers and institutions indicated to:
 1. Furnish to the home a copy of the signer's medical record;
 2. Allow the home to review the medical record; and
 3. Furnish to the home specified additional pieces of information; and
- b. Including:

1. The witnessed signature of the applicant or the applicant's legal representative; and
2. The date of signing;

(9) Page 8, "consent to treatment, use of health care information, and receipt of privacy notice" (effective date 03/17/08), requiring:

- a. The initials of the applicant or the applicant's legal representative placed next to 3 preprinted statements entitled respectively "consent for care and treatment", "consent for use of health care information" and "acknowledgement of receipt of privacy notice";
- b. The signature of the applicant or the applicant's legal representative; and
- c. The date of signing;

(10) Page 9, "New Hampshire veterans' home security form" (effective date 07/16/18) requiring:

- a. Written information about any non-annulled conviction;
- b. The witnessed signature of the applicant or the applicant's legal representative; and
- c. The date of signing; and

(11) The last page, un-numbered, a completed “Criminal History Record Information Release Authorization Form” with (effective date 07/15/16) issued by the division of state police authorizing the release of the applicant's criminal record.

(c) Applicants for residency or their legal representatives shall submit or arrange for the following documents to be submitted:

(1) The completed form which is page 5A of the application packet, entitled “state home program application for veteran care medical certification” (effective date 07/16/18);

(2) The completed form which is page 5B of the application packet, entitled “medical information for nhvh admission application” (effective date 03/17/18);

(3) Original military documents showing:

- a. Entry into service;
- b. Discharge from service; and
- c. The type of discharge from service;

(4) Photocopies of all cards issued to the applicant by providers of medical insurance, including Medicare;

(5) Photocopies of the applicant's:

- a. Living will;
- b. Powers of attorney for health care or finances; and
- c. Any other documents addressing his or her advance directives;

(6) Photocopies of any legal orders establishing a guardianship or conservatorship over the applicant;

(7) The applicant's certified marriage certificate or certified divorce decree;

(8) Documentation of all assets held at any time during the 12 months immediately prior to the date of application, including:

- a. Trust documents;
- b. Annuity documents;
- c. Deeds and related mortgage documents;
- d. Long term care insurance policies;
- e. Stock certificates and other evidence of investments; and

- f. Any other documents showing the applicant's ownership of assets; and
- (9) Documentation of all income received during the 12 months immediately prior to the date of application, including:
- a. Photocopies of checks in payment of:
 - 1. Social security;
 - 2. Disability insurance;
 - 3. Railroad retirement;
 - 4. Military retirement;
 - 5. Pensions;
 - 6. Salary or compensation;
 - 7. Rents charged by the applicant;
 - 8. Interest on the applicant's investments; and
 - 9. Any other periodic payment;
 - b. Statements issued in connection with the payments listed in a. above; or
 - c. Bank statements showing direct deposit of the payments listed in a. above.

Ve-H 306.02 Role of the Home in Cases of Disagreements Relating to Admission, Residency, or Treatment.

(a) The home shall follow the directions of the legal representative of an applicant for admission or a resident regarding admission, residency, and treatment, provided that the legal representative has the authority to issue the directions.

(b) The home shall not mediate disagreements relating to admission, residency, or treatment when there are such disagreements among an applicant's or resident's family members, friends, or other interested parties.

Ve-H 306.03 Effect of Signature on Page One-A of the Application. The witnessed signature on page one-A of the application shall constitute the applicant's verification that the information entered on pages one and one-A is true to the best of the applicant's knowledge and belief.

Ve-H 306.04 Effect of Witnessed signature on Page 4 of the Application. The witnessed signature on page 4 of the application shall have the effect of:

(a) Stating the applicant's understanding that the home is owned and operated by the state and subject to the rules of the state;

(b) Giving the applicant's permission for the home to provide needed information, including the applicant's spouse's income and social security number, to the department of veterans' affairs;

(c) Giving the applicant's promise to abide by the rules and regulations established by the commandant, the board of managers, and the state;

(d) Confirming that:

(1) The assets are accurately stated; and

(2) The applicant has not transferred any assets within the 12-month period prior to the application for the sole purpose of complying with eligibility requirements;

(e) Certifying that there are no willful misrepresentations and the applicant's understanding that, if an investigation discloses any such misrepresentations, the applicant's admission may be denied or, if the applicant is already a resident, the applicant may be discharged;

(f) Giving the applicant's promise that he or she will provide proof of assets and income during the admission process and thereafter when requested by the business office for the determination of monthly cost of care;

(g) Giving the applicant's promise to accept transfer to another facility if the home does not have the resources to care for the applicant and the transfer is recommended by the medical director of the home;

(h) Confirming that the applicant has read, or has had read to him or her, the information in the application form and application instructions;

(i) Giving the applicant's assurance that the information given on the application form is true and correct to the best of the applicant's knowledge and belief; and

(j) Acknowledging that the home reserves the right to request updated information regarding the applicant's application for residency.

Ve-H 306.05 Effect of Witnessed Signature on Page 6 of the Application. The witnessed signature on page 6 of the application shall have the effect of:

(a) Confirming that the signer gives his or her permission for the medical providers and institutions indicated to:

(1) Furnish to the home a copy of the ~~signer's~~ applicant's medical record;

(2) Allow the home to review the medical record; and

(3) Furnish to the home specified additional pieces of information;

(b) Confirming that the permission is for the specific purpose of consideration for admission to the home, and, if the ~~signer~~ applicant is admitted, for the specific purpose of continued care;

(c) Confirming that the information is confidential shall be used only for the purposes stated, and shall not be re-released;

(d) Requesting that the permission given by the signer applicant become invalid one year from the date of his or her signature; and

(e) Confirming the signer's applicant's understanding that his or her permission is subject to revocation at any time unless action on the permission has already begun in good faith.

Ve-H 306.06 Effect of Signature on Page 8 of the Application.

(a) The signature on page 8 of the application shall, when combined with the first set of initials, have the effect of:

(1) Authorizing the home and those involved in the provision of services on its behalf to:

- a. Examine the signer applicant;
- b. Secure appropriate information about the signer applicant; and
- c. Perform routine appropriate treatment;

(2) Confirming the signer's applicant's understanding that a responsible person will explain the benefits and risks of any particular treatment; and

(3) Confirming the signer's applicant's understanding that he or she will have the right to refuse any proposed treatment.

(b) The signature on page 8 of the application shall, when combined with the second set of initials, have the effect of:

(1) Confirming the signer's applicant understands that:

- a. The home will use his or her healthcare information for purposes of treatment and other lawful functions, including securing payment and other usual healthcare operations;
- b. Such information may be available to persons working on behalf of the home, who will be subject to the same duty of confidentiality with respect to the information as is the home; and
- c. His or her specific authorization shall be required for the home, if it holds such information, to disclose to others certain sensitive information related to his or her health care, such as:

1. Records covered by federal law governing confidentiality of alcohol or drug abuse treatment programs;

2. Records covered by state rules governing the rights of recipients of mental health services; and

3. Records concerning the diagnosis or treatment for HIV infections;

(2) Consenting to the home's use of the information described in (b)(1)c. above for the purpose of his or her evaluation and treatment; and

(3) Confirming the ~~signer's~~ applicant's understanding that he or she may refuse the sharing by the home of such information, but refusal may result in improper diagnosis or treatment or other adverse consequences.

(c) The signature on page 8 of the application shall, when combined with the third set of initials, have the effect of:

(1) Acknowledging receipt of the notice of privacy practice for protected health information; and

(2) Confirming the ~~signer's~~ applicant's understanding that the notice contains important information about how his or her medical information may be used, disclosed, and accessed by the ~~signer~~ applicant.

Ve-H 306.07 Effect of Signature on Page 9 of the Application. The witnessed signature on page 9 of the application shall have the effect of certifying that:

(a) Any description placed by the applicant on page 9 of his or her non-annulled conviction of a crime is accurate; and

(b) The failure of the applicant to place such a description on page 9 signifies that the applicant has no non-annulled conviction of a crime.

Ve-H 306.08 Effect of Signature on Page 10 of the Application. The signature on the last and un-numbered page of the application shall have the effect of:

(a) Certifying that the ~~signer~~ applicant is the individual described by the name, address and other identifying information entered on the page; and

(b) Confirming that the ~~signer~~ applicant authorizes the division of state police to furnish his or her criminal record to the home for the purpose of admission to the home.

Ve-H 306.09 Actions Taken on Applications for Residency.

(a) If the admissions committee determines that the information in the application packet is insufficient to determine eligibility for residency, the admissions committee shall inform the applicant in writing of the following:

(1) The fact that sufficient information to determine eligibility has not been provided or obtained;

- (2) The specific additional information which is needed; and
- (3) The right of the applicant to resubmit the application at any time.

(b) If the admissions committee determines that the applicant does not meet one or more of the eligibility requirements for residency, the commandant shall so inform the applicant in writing.

ReAdopt Ve-H 400, effective 6-28-18 (Document #12564, Interim), to read as follows:

CHAPTER Ve-H 400 TRANSFER AND DISCHARGE FROM THE HOME

PART Ve-H 401 DEFINITIONS

Ve-H 401.01 Definitions. The following terms shall have the following meanings:

- (a) "Home" means the New Hampshire veterans' home;
- (b) "Legal representative" means any person designated in the manner required by law to act on behalf of the applicant for residency or resident, including:
 - (1) A guardian;
 - (2) A conservator; and
 - (3) A person acting pursuant to an applicable power of attorney;
- (c) "Therapeutic leave" means leave from the home taken by a resident in accordance with his or her plan of care; and
- (d) "Transfer" means discharge of a resident directly to another facility providing medical care, long term care, custodial care, or any other kind of care related to the needs of the resident.

PART Ve-H 402 DISCHARGE

Ve-H 402.01 Transfer or Discharge at the Request of the Resident.

- (a) The home shall honor a request for transfer or discharge made by the resident or the resident's legal representative with the authority to make such a request, whether or not such transfer or discharge is against medical advice.
- (b) If the requested transfer or discharge does not take place on the first day of the month, financial responsibility for the month's room and board charges shall be prorated to the date of actual discharge.
- (c) Upon requested transfer or discharge, the home shall return to the resident or the resident's legal representative:
 - (1) The resident's personal property, including original documents belonging to the resident; and

(2) The balance of the resident's account after all accrued charges have been paid and any check tendered in payment has cleared.

(d) If, after the requested transfer or discharge, the resident or the resident's legal representative with authority to re-admit the resident wishes the resident to be re-admitted and the re-admission is not covered by the bed holding policies set forth in Ve-H 402.03, the resident or the legal representative shall:

(1) Make a new application for admission in accordance with Ve-H 300; and

(2) Pay in full any unpaid charges accrued during the previous residency.

Ve-H 402.02 Transfer or Discharge at the Request of the Home.

(a) The home shall not transfer or discharge a resident without the agreement of the resident or the resident's legal representative with the authority to agree unless:

(1) The resident has knowingly misrepresented, during the admission application process, any fact material to the determination of eligibility in accordance with Ve-H 302.01;

(2) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the home;

(3) 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 home;

(4) The safety of residents is endangered;

(5) The health of residents would otherwise be endangered;

(6) The resident has failed to pay accrued room and board charges after reasonable notice of the arrears; or

(7) The home ceases to operate.

(b) The home shall give the resident, any legal representative of the resident and any known family member of the resident, written notice of its intent to transfer or discharge the resident involuntarily, including in the notice:

(1) The reason for the transfer or discharge;

(2) The effective date of the transfer or discharge;

(3) The location to which the resident is to be transferred or discharged;

(4) The name, address, and telephone number of the long term care ombudsman;

(5) The bed holding policies of the home and the period during which the resident is permitted to return without making a new application for admission; and

(6) A brief description of the right to appeal the proposed transfer or discharge pursuant to Ve-H 205 through Ve-H 216.

(c) Notice shall be given:

(1) At least 30 calendar days before transfer or discharge for reasons stated in (a)(1), (a)(6) and (a)(7) above; and

(2) As soon as practicable before the transfer or discharge for reasons stated in (a)(2), (a)(3), (a)(4), or (a)(5) above.

(d) If, after transfer or discharge at the request of the home, the resident or the resident's legal representative with authority to re-admit the resident wishes the resident to be re-admitted and the re-admission is not covered by the bed holding policies set forth in Ve-H 402.03, the resident or the legal representative shall:

(1) Make a new application for admission in accordance with Ve-H 300; and

(2) Pay in full any unpaid charges accrued during the previous residency.

Ve-H 402.03 Absence from the Home and Bed Holding Policies.

(a) A bed shall be held open for a resident absent from the home for:

(1) At least 96 consecutive hours so long as the resident pays for his or her room and board in accordance with (b) or (c) below, as applicable; and

(2) As long as 6 months or until needed for eligible applicants for residency or for other residents, so long as the resident pays room and board charges in accordance with (b) or (c), as applicable, below.

(b) Room and board charges for residents absent from the home for therapeutic reasons or for hospitalization shall be room and board net of any per diem reimbursement by the federal government.

(c) Room and board charges for residents absent from the home for reasons other than therapeutic or hospitalization shall be:

(1) For the first 96 consecutive hours of absence, room and board net of any per diem reimbursement by the federal government; and

(2) For longer periods, room and board and also the amount of the per diem reimbursement which the federal government ceased paying after the first 96 consecutive hours of absence.

APPENDIX

RULE	STATUTE
Ve-H 301	RSA 541-A:7
Ve-H 302.01(a)-(c)	RSA 119:1
Ve-H 302.01(d)-(f)	RSA 119:5; RSA 119.9
Ve-H 303-Ve-H 305	RSA 119:5; RSA 119.9
Ve-H 306.01	RSA 119:9
Ve-H 306.02	RSA 119:5
Ve-H 306.03-Ve-H 306.09	RSA 119:9
Ve-H 400	RSA 119:5