STATE OF NEW HAMPSHIRE
ATTORNEY GENERAL'S OFFICE

Incapacitated Adult Fatality Review Committee

"Wrinkles should merely indicate where smiles have been." ~Mark Twain

Annual Report
December 2013

TABLE OF CONTENTS

ACKNOWLEDGMENTS

Sincere appreciation goes to the members of the d Incapacitated Adult Fatality Review Committee (IAFRC), who have continued to work diligently and respectfully to study New Hampshire's elder and incapacitated fatalities, in an effort to prevent future deaths.

These deaths are difficult and painful to review. The IAFRC has worked to honor the lives that have been lost and to examine ways to help prevent future fatalities. The IAFRC would like to recognize and thank all of the individuals who have made presentations at IAFRC meetings and who have participated as guests in reviewing the cases. We are indebted to these individuals for assisting us in better understanding the complexities of the issues surrounding these fatalities.

Special thanks goes to **Danielle Snook** of the Attorney General's Office who throughout the year provides support and information to the IACFRC members and coordinates the work of the committee

INCAPACITATED ADULT
FATALITY REVIEW COMMITTEE

MISSION STATEMENT

To reduce elderly and incapacitated adult fatalities through systemic multidisciplinary review of fatalities, evaluation of practices, policies, relevant data and trends and through recommendations for changes in law, policy and practice.

We recognize the responsibility for responding to, and preventing, elder and incapacitated adult abuse and neglect fatalities, lies within the community, and not with any single agency or entity. We further recognize that a careful examination of the fatalities provides the opportunity to develop education, prevention, service delivery, management, quality assurance strategies and, if necessary, prosecution strategies that will lead to improved coordination of services for elder and incapacitated adults and their families.

OBJECTIVES

1. Determine and report on trends and patterns of elderly and incapacitated adult deaths in New Hampshire.

2. Recommend policies, practices, and services that will promote collaboration among service providers for, and reduce preventable fatalities among, incapacitated adults.

3. Evaluate policies, practices, intervention and responses to fatalities among incapacitated adults and offer recommendations for any improvements in those interventions and responses.

4. Evaluate and report on high risk factors, current practices, gaps in systematic responses, and barriers to safety and well being for incapacitated adults in New Hampshire.

5. Recommend improvements in the sources of data relative to preventing fatalities among incapacitated adults.

6. Educate the public, policy makers, and budget authorities about fatalities involving covered incapacitated adults.

7. Identify and evaluate the prevalence of risk factors for preventable deaths in the population of incapacitated adults.

8. Development and dissemination of an annual report to state officials describing any trends and patterns of deaths or serious injuries or risk factors, together with any recommendations for changes in law, policy, and practice that will prevent deaths and related serious occurrences and special reports when doing so is necessary to alert authorities or the public to the need for prompt corrective action.

INCAPACITATED ADULT FATALITY REVIEW COMMITTEE MEMBERSHIP LIST

Don Rabun, LTC Ombudsman* Chair
Office of the Long Term Care Ombudsman

Thomas A. Andrew, **MD***
Chief Medical Examiner
Office of the State Medical Examiner

L. Rene Bergeron, PhD
Director of Philosophy
Social Work Dept- UNH

Vicki Blanchard
Advanced Life Support Coordinator
Dept of Safety, Bureau of EMS

James R. Brown
Investigator
NH Attorney General's Office

Sergeant Stephen Burke
Rochester Police Department

Linda Carter, RN, MSA
Healthy At Home

Richard Cohen, Esq.*
Executive Director
Disabilities Rights Center

Alexander de Nesnera, MD*
Associate Medical Director
New Hampshire Hospital

Jennie Duval (Alt.)
Office of the State Medical Examiner

Matthew Ertas, Bureau Administrator
Bureau of Developmental Services
Division of Community Based Care Services

Elizabeth Fenner-Lukaitis*
Acute Care Services Coordinator
Bureau of Behavioral Health

Amanda Grady
Public Policy Director
New Hampshire Coalition Against
Domestic and Sexual Violence

*= denotes Executive Committee Member

Honorable David King
Deputy Administrative Judge
New Hampshire Probate Courts

Diane Langley, MHSA, RN-C*
Deputy Director Division of Community Based Care Services
Department of Health and Human Services

Linda Mallon, Esq.
Executive Director
Office of the Public Guardian

John Martin, Manager
Bureau of Licensing and Certification
Department of Health and Human Services

Sandra Matheson, Director*
Office of Victim/Witness Assistance
Attorney General's Office

David Oullette
Director of Projects
NH Council on Developmental Disabilities

Leon Parker
Pharmacist

Erik G. Riera, EdM, CAS, MBA
Bureau Administrator
NH Bureau of Behavioral Health

Bernie Seifert
Coordinator of Older Adult Programs
NAMI NH

Carol Stamatakis, Esq.
Director of Planning and Policy
NH Council on Developmental Disabilities

Mike Skibbie Esq. (Alt.)
Disabilities Rights Center

Dotty Treisner
Director of Special Projects
Community Support Network, Inc.

I. INTRODUCTION

The abuse of elderly and incapacitated adults is a serious and growing problem, both locally and nationally. However, the responses of the justice, health, and social services systems to elder and incapacitated adult abuse lag far behind their responses to the similar problems of child abuse or domestic violence. Fatality review teams for child abuse and domestic violence have had an impact in improving systems' responses to the victims of those similar forms of abuse. Yet, elder and incapacitated adult fatality review teams are only just starting to develop.[1]

The Incapacitated Fatality Review Committee (IAFRC) is a group of professionals from many different organizations, agencies and branches of government that convenes periodically to review cases where an elderly or incapacitated adult has died. The theory underlying the fatality review process is that if we are able to better understand why and how a death occurred, we can learn important lessons to help prevent future deaths. The review process affords the Committee with the opportunity to develop recommendations that are intended to improve the statewide provision and coordination of services for elder and incapacitated adults and their families.

[1] Reprinted with the permission of the American Bar Association Commission on Law and Aging publication entitled *Elder Abuse Fatality Review Teams: A Replication Manual*.

II. HISTORICAL BACKGROUND

In 2007, House Bill 862-FN, sponsored by State Representatives Schulze, MacKay, Donovan, Emerson, French and Fuller Clark, was introduced to establish a committee to study the incidence and causes of deaths of incapacitated adults. (See Appendix A) The purpose of the proposed committee was, among other things, to recommend policies, practices, and services that will promote collaboration and reduce preventable fatalities among incapacitated adults.

On January 1, 2008, RSA 21-M: 16 took effect thus creating the Incapacitated Adult Fatality Review Committee. The Committee, which is administratively attached to the Attorney General's office, exemplifies New Hampshire's strong tradition of multi-disciplinary cooperation and its commitment to improving the State's ability to protect its most vulnerable citizens. The statute authorized the Attorney General to appoint members to the committee from the health care field, organizations with expertise in services provided to incapacitated adults, law enforcement, organizations or individuals who advocate for or provide legal representation for incapacitated adults, and other members as the Attorney General determines will assist the committee in fulfilling its objectives.

The authority and objectives of the Committee are defined by statute and incorporated into the Committee's mission statement. The meetings and records of the Committee are exempt from the provisions of RSA 91-A (Right-to-Know Law). The Committee adheres to strict confidentiality standards and does not identify what cases have been reviewed. Additionally, Committee members sign a confidentiality agreement that prohibits any unauthorized dissemination of information beyond the purpose of the review process as a condition of membership.

The committee strives to review certain deaths that pose unique or systemic questions with the ultimate question being posed, "what could have been done to prevent this death?"

III. FATALITY REVIEW

MEMBERSHIP

The Committee's membership is comprised of individuals representing the health care field, organizations with expertise in services provided to elderly and incapacitated adults, law enforcement, organizations or individuals who advocate for or provide legal representation for elderly and incapacitated adults, and such other members as the Attorney General determines will assist the committee in fulfilling its objectives.

A review of the membership list, included at the beginning of this report, reflects representation from the following: Probate Court, law enforcement, victim services (through

both the Attorney General's Office and the New Hampshire Coalition Against Domestic and Sexual Violence), health care (medical and mental health), Department of Health and Human Services, Bureau of Elderly and Adult Services and Long Term Care Ombudsman, attorneys, disability rights advocates, emergency management services, home care providers, public guardians, and members of public and private organizations that advocate for, and serve the needs of, elderly and incapacitated adults.

The unique make-up of the committee members is the key to the committee's success. Committee members are volunteers and do not get paid for their time or mileage to participate. Their presence on the committee exemplifies their compassion, their professionalism, and their professional and personal commitment to improving the lives of our elderly and incapacitated adult population as well as the system that serves them.

These members come together every other month to review deaths with the hope of improving the State's ability to meet the needs of its most vulnerable citizens.

IV. CONFIDENTIALITY AGREEMENT

Pursuant to RSA 21-M:16, VIII, the meetings and records of the committee are exempt from the provisions of RSA 91-A ("Right-To-Know-Law"). Because certain information that is shared at committee meetings is confidential, all members of the committee must sign a confidentiality agreement that prohibits any unauthorized dissemination of information beyond the purpose of the review process as a condition of membership. (See Appendix B).

In addition to individual confidentiality agreements, an Interagency Agreement has been signed by the heads of the New Hampshire Attorney General's Office, the New Hampshire Department of Health and Human Services, and the New Hampshire Department of Safety. (See Appendix C).

V. CASE REVIEW PROTOCOL

1. The IAFRC will review data regarding certain deaths of New Hampshire elderly and incapacitated adults as defined in NH RSA 21-M:16, IV.

2. The Committee's review of a case shall not be initiated until such time as any related civil and criminal actions have finally been resolved.

3. Comprehensive, multi-disciplinary review of specific cases may be initiated by the Attorney General's Office, the Department of Health and Human Services, the Department of Safety, or by any member of the Incapacitated Adult Fatality Review Committee (IAFRC).

4. Once the IAFRC Executive Committee identifies a case for review, the IAFRC Chairperson or Staff Assistant will send case information to IAFRC members in a sealed envelope marked "Confidential" prior to the scheduling of the case for review at an IAFRC meeting. The envelope may contain, among other things, the following information: name of victim and perpetrator (if applicable), name of facility or address of residence where death occurred, name of caregiver, deceased's date of birth, driver's license number and social security number.

5. The IAFRC members should gather necessary information pertaining to the specific case and report this information and their organization's involvement or non-involvement during the IAFRC meeting.

6. At the IAFRC meeting, members will review the facts and information gathered for each case, and identify any policies and procedures that could be strengthened or implemented, or measures that could have been taken to prevent the death from occurring.

7. The Committee shall make an annual report, on or before the first day of November each year to the speaker of the House of Representatives, the President of the Senate, and the Governor describing any trends and patterns of deaths or serious injury or risk factors, together with any recommendations for changes in law, policy, and practice that will prevent deaths and related serious occurrences. The Committee may also issue special reports when doing so is necessary to alert authorities or the public to the need for prompt corrective action.

8. Each Committee member representing a discipline or agency will designate an alternate member from their discipline or agency and will ensure that one member will be present at every meeting.

9. Confidentiality agreements are required of any individual participating in any IAFRC meeting.

10. Written materials generated from the meeting such as case summaries or notes pertaining to the case will be collected by the Staff Assistant or the Chairperson and destroyed. Use of recording equipment is not allowed.

11. The IAFRC Executive Committee, comprised of members of the IAFRC, assesses case information to be reviewed by the IAFRC and performs other business as needed.

12. The IAFRC will convene every other month at times published by the Executive Committee.

13. The Committee may invite non-member guests to observe and participate in a review. Invited guests shall be required to sign a confidentiality agreement.

VI. 2013 ELDER AND INCAPACITATED ADULT REVIEW REPORT

This IAFRC Report contains all of the recommendations made by the IAFRC Committee since it began to review cases in 2008, including recommendations that have been reported out in previous reports. This report provides responses to some of the prior recommendations, received from the various agencies, as to what has been accomplished through the recommendations that have been made by the IAFRC.

"It was once said that the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life, the sick, the needy and the handicapped."

- Hubert H. Humphrey

VII. RECOMMENDATIONS

TRAINING

1. **Recommendation**: Increase training and literature for the medical community on the proper recognition and reporting of medicolegal (suspicious and unexpected) deaths.

   Response: An article was developed for the New Hampshire Board of Medicine, the New Hampshire Medical Society and New Hampshire Board of Nursing newsletters and appeared in the 2009 Newsletter. Additionally, the New Hampshire Healthcare Association sponsored a training at their annual conference.

2. **Recommendation**: Increase the awareness of the IAFRC Committee on the NAMI-NH Connect/Frameworks Suicide Prevention Programs.

   Response: NAMI presented to the Committee at a 2009 meeting.

3. **Recommendation**: Train medical providers to do routine screening about general wellness and mental health screening.

   Response: Routine screening was discussed with the New Hampshire Department of Health and Human Services (DHHS) Medical Directors, which included representation from the New Hampshire Medical Society and the New Hampshire Hospital Association. Participants agreed to bring the issue back to their respective constituencies, i.e. primary care, pediatrics, dental, psychiatry and the medical society. The use of the Patient Health Questionnaire (PHQ) Incorporated into the Bureau of Elder and Adult Services (BEAS) SDM and screening was supported. Many Primary Care Providers use it. Additionally, an article was submitted to the New Hampshire Medical Society on the importance of screening.

4. **Recommendation**: Explore alternative ways to do training and outreach such as web based.

   Response: New Hampshire Police Standards and Training (NHPST) maintains a vast video library for police officers. Currently the library is only available on a loaner basis and is not available via live streaming. Some programs are brief which allows police departments to utilize these training videos during "roll call" briefings. Some programs are longer and utilized for in-service training. Here is a short list of tiles: "Interacting With Disabled People"," Interacting With Individuals With Developmental Disabilities", "Interacting With the Mentally Ill", "Law Enforcement and the Mentally Disordered", "Mental Illnesses and the People Who are Affected by Them" and "Violence and Mental Illness"

5. **Recommendation**: Increase training for EMS/Fire on identifying and responding to incidences of elder abuse and neglect and mandatory reporting, as well as available resources. Include elder abuse workshop to annual EMS conference.

   Response: A workshop on responding to, and identifying, incidences of elder abuse was presented at the October 2010 EMS Conference. The New Hampshire EMS Protocol on Elder and Incapacitated Adults or Other Vulnerable Individuals was revised in 2013 and the EICAFRC recommendation was incorporated into the revised protocol.

6. **Recommendation:** Support additional training for law enforcement on mental health issues.

   Response: All full-time certified officers receive 16 hours of dedicated mental health training in the academy; in addition to this dedicated block, which includes awareness, understanding, resources, interacting, facilitation of assistance, interacting and suicide prevention/Postvention, a consumer comes in and speaks to the class and presents scenarios. Additionally, officers receive up to an additional 7 hours of more specific training of dealing with persons with autism, deaf and hard of hearing; elder adults who may be subject to abuse or neglect and scenario based training revolving around each of these.

   All part-time certified officers receive 8 hours in the academy to include 4 hours of classroom and 4 hours of scenarios in mental health. Additionally, they receive training in elder abuse and neglect.

   In-service training is offered to any officer who has graduated the Police Academy and is currently employed by a police department. Course offerings in the area of mental health include: Forensic Psychology, Suicide Prevention and Postvention, Crisis Work and Trauma in Police Work, Dealing with Emotionally Disturbed persons, Responding to Juveniles with Mental Health Needs, How to effectively communicate conflict, Mental health Response to Crisis Situations and an on-line course for officers in Responding to Calls with Older Adults who have Behavioral Concerns. These courses consist of 6-8 hour blocks and are held at least once a year.

   In 2012, NAMI and Primex teamed up with NHPS&T to host several regional 2 day classes around the state on mental health awareness to law enforcement.

7. **Recommendation**: Increase pharmacist education and awareness regarding caregiver issues.

   Response: Awaiting response.

PUBLIC AWARENESS

1. **Recommendation**: Create public awareness campaign from the Bureau of Elder and Adult Services (BEAS) on the warning signs of abuse/neglect.

   Response: The Elder Abuse Advisory Council (EAAC) developed an Awareness Campaign for the general public on the state's mandatory reporting law regarding suspected abuse or neglect of elder and incapacitated adults. Posters and brochures were developed and distributed statewide. The EAAC developed a second series of materials focused on educating the general public on what constitutes elder abuse, neglect and exploitation, including financial exploitation and the signs and symptoms to be aware of. The EAAC worked with WMUR television to develop an Elder Abuse Public Service Announcement (PSA) on elder abuse awareness, which was widely broadcasted around the state. In addition to creating public awareness, the Law Enforcement Partnership, Protection and Safety Subcommittee (LEPPS) of the EAAC developed materials for law enforcement, including posters, brochures and a Law Enforcement Resource Guide to Elder and Adult Services, regarding the mandatory reporting law and the law enforcement response to elder abuse and exploitation. A letter from the Commissioner of DHHS was sent to all law enforcement agencies to introduce them to the Law Enforcement Resource Guide and over 4,600 were distributed to full and part-time police officers around the state.

   The LEPPS Subcommittee developed a PowerPoint law enforcement training program on Elder Abuse, which has been provided to a variety of audiences including: the Police Academy for full-time recruits, the Part-Time Police Academy , police departments , Medical Examiners and Assistant Medical Examiners , firefighters, nursing homes , hospital personnel, Adult Protective Social Workers , first responders, social service and home health care agencies and the Governor's Commission on Domestic and Sexual Violence Conferences

   This training is ongoing and materials are available through BEAS. Presentations have continued on an annual basis to providers representing Adult Day Programs, Case Management Agencies, In-Home Support Programs and Residential Care. Presentations have been expanded to include mental health and substance related issues.

2. **Recommendation**: Upon termination of employment, information on community services (including mental health and medical services) should be provided to the employee. The State of New Hampshire State Employee Assistance Program should be encouraged to develop a comprehensive resource guide for Human Resource departments on resources available to employees to mitigate loss.

Response: Due to the current economic conditions within state government, there are anticipated layoffs in the near future. Materials have been produced that provide information and phone numbers for support services. Research has been and continues to be pursued to locate networking and support groups for those affected. Resource Centers have been developed that include specialists in each of the benefit areas so that individuals can meet with, have questions answered and receive pertinent information at one location.

3. **Recommendation**: Work with the Granite State Children's Alliance of Child Advocacy Centers (CACs) to do outreach and education with law enforcement regarding their services and availability.

   Response: The Granite State Children's Alliance of CACS developed a standardized in-depth PowerPoint on New Hampshire CACS and their services to be used to promote the usage of CACs. There are CAC's in all 10 counties which have strong support from law enforcement.

4. **Recommendation**: Develop a brochure/protocol that outlines reporting requirements in a suspicious or unexpected death for various disciplines.

   Response: No action successfully taken on this recommendation to date.

5. **Recommendation**: Develop generic caregiver outreach materials.

   Response: The Committee is gathering and reviewing existing resources to determine what could be used to develop to meet the needs of this recommendation.

POLICY

1. **Recommendation**: Develop a multidisciplinary protocol for first responders on responding to elder and incapacitated adult abuse.

   Response: A multi-disciplinary protocol for first responders to use in cases of elder abuse has been completed. The new tool is entitled Responding to the Needs of the Elderly: Law Enforcement Field Guide and Resource Manual on Elder Abuse, Neglect and Financial Exploitation. Copies were sent to all police departments in the state; given to the 125 law enforcement officers that attended two-day regional trainings on elder abuse; and is provided to each new officer that goes through the New Hampshire Police Standards and Training Academy. An on-line version of the manual is also available on Attorney General's website http://www.doj.nh.gov/criminal/victim-assistance/documents/elder-abuse-guide-manual.pdf

2. **Recommendation**: Include someone from the medical community to accompany BEAS workers for consultation in the course of a BEAS investigation.

Response: Medically trained staff are available on a consultative basis to all adult protective workers in an effort to augment the Adult Protective Service (APS) assessment. APS workers have been trained in the use of specific self-reported instruments that help in the identification of both medical and psychiatric issues.

3. **Recommendation**: Bureau of Developmental Services (BDS) should promote and as appropriate, require that there be a variety of community housing options and supports available, to include options for persons with more complex medical and behavioral needs.

   Response: The decisions on housing options are typically made based on discussions with the individual, family and guardian, i.e., case by case. BDS will continue to fund a variety of different residential service arrangements, based on team recommendations and availability of funding and housing. Utilization of the adult foster care model within New Hampshire's Developmentally Disabled (NHDD) system has been high due to individuals' preferences for family home environments, limited affordable housing options across the state and the cost effectiveness of this model.

4. **Recommendation**: DHHS should adopt more transparent policies in regard to release of state investigation and sentinel reviews, access to which, have been blocked in this matter. These reviews by their nature are not internal quality assurance products and therefore should be available, redacted as needed. They are reviews of external agencies. Principles of transparency and good management (to help ensure corrective action) warrant more transparency.

   Response: In support of its commitment to quality in the delivery of health and human services to the citizens of New Hampshire, DHHS will review sentinel events as part of its quality assurance activities. Statutory authority for reviews of sentinel events is set forth in NH RSA 126-A:4, IV: E. Confidentiality Pursuant to RSA 126-A:4, IV, any and all records of or prepared solely for the Sentinel Event Review shall be confidential.

5. **Recommendation**: BDS should strongly consider adopting an objective assessment instrument, such as the Supports Intensity Scale (SIS), to determine level of need and services for individuals in the DHHS/AA systems including the type of housing arrangement.

   Response: BDS and area agencies are adopting SIS as a tool to assess individual's needs, including medical. Training of staff regarding this tool was conducted in November 2009. The revised BDS regulation He-M 1001.06 (p) states the following: "Within 5 business days of an individual's moving into a community residence or a change in residential provider, a service coordinator and licensed nurse shall visit the individual in the home to determine if the

transition has resulted in adverse changes in the health or behavioral status of the individual."

6. **Recommendation**: BDS should revise its rules regarding its expectation that the area agency service coordinator visit the individual at their new residence within 30 days of placement or sooner as needed

   Response: BDS will revise its regulations He-M 503 and 1001 to require the Area Agency Service Coordinators to visit the individuals receiving residential services at new locations within 30 days of placement or sooner as needed.

7. **Recommendation**: BDS should reinstate its investigation capacity so that there is a state level investigation of deaths that arise from suspicious or unusual circumstances, to include investigations when there is reason to believe that abuse or neglect contributed to the death. The SB 138 Committee already recommended, effective July 2010, that abuse and neglect investigations conducted at the area agency level be transferred to BDS. With a more robust investigative capacity at the BDS level, sound practice would warrant that full death investigations be conducted at that level. Sentinel reviews could still take place, but would have the benefit of full investigations

   Response: BDS has revised its Rule He-M 202 extensively and implemented a new system of complaint investigations. There is now an answering service (an 800 call-in number) for reporting of complaints, which is operational 24/7. These complaints are handled by trained independent investigators who are contracted by BDS carry out the complaint investigations. The revised regulation also calls for the investigators to identify and make recommendations about systemic issues, as well making determination about individual cases. The new process of investigations continues to be complemented by the Sentinel Event Reviews.

8. **Recommendation**: All registered nurses employed by area agencies or providers serving persons with developmental disabilities should become certified by the Developmental Disabilities Nurses Association (DDNA). Current nurses and new hires receive the funding to do so. Given the specialty needs of this population in the health, medical, cognitive area and sometimes behavioral area, this would be the one important mechanism to ensure adequate and comprehensive nursing and medical care.

   Response: BDS does offer a 50% cost reimbursement for membership in the Developmental Disabilities Nurses Association. This affords the nurses access to 75 CEUs on-line for free. BDS also included in the He-M 1201 regulation that in order to maintain Nurse Trainer status, all nurses must include at least one CEU specific to DD nursing during their regular nursing license renewal. Additionally, a liaison officer position was created within the Developmental Disabilities Nurses of New Hampshire group, who regularly reports current issues to the group as well as attends the annual conference, bringing back information and educational opportunities for the nurses.

9. **Recommendation**: There should be access to a medical consultant (MD, APRN) to visit with and assess consumers not well connected with a primary care provider (PCP) otherwise, and to make recommendations to the consumer's primary psychiatrist around appropriate medical treatment and monitoring.

    Response: New Hampshire transitioned to Managed Medicaid December 1, 2013. As of October 1, 2013, open enrollment began for recipients enabling each to examine the Health Plans of three contracted Managed Care Companies. Upon examination individuals were asked to inform the Department of their selection. Once an individual selected or was auto assigned to a health plan, he or she was sent a letter, member handbook and issued and ID-Card that identified his or her primary care provider (PCP). Each PCP required newly enrolled individual to complete a Health Assessment with specific features designed for a specials needs population. Included in the contractual design of the Health Plans are specific quality indicators defining appointment time frames; immediate, within 24 hrs.; within two weeks etc. Further each Health Plan employs care coordinators linked to individual members who are responsible for monitoring the integration of services, ie psychiatry, chemotherapy, internal medicine and or surgical services.

10. **Recommendation**: Support expansion and continued funding for the Housing First Program through Bureau of Behavior Health (BBH). Representatives from IAFRC will work with BBH to develop and implement a plan to present to the state Joint HHS Oversight Committee.

    Response: BBH applied for federal HUD funding to expand the program through this year's NOFA (Notice of Funding Availability) Bonus Project Funding. Despite having strong letters of support from the Committee and the Governor funding was not awarded.

11. **Recommendation**: New Hampshire Hospital should review internal procedures for thorough preparation of cases of guardianship to ensure that all information is provided to the court in cases where a patient is refusing medication and treatment (i.e. development of a checklist).

    Response: The attending physician meets with the head legal counsel to review the guardianship cases to determine specific issues that treatment team needs to do to make the case for a better case for guardianship. New Hampshire Hospital counsel and social workers attended the guardianship training in November 2011 that was sponsored by the Office of the Public Guardian.

12. **Recommendation:** Encourage the New Hampshire Hospital Association to strengthen collaboration with mental health centers in discharging patients.

Response: An email was sent to all New Hampshire hospitals with referral information for the state's Community Mental Health Centers.

13. **Recommendations:** Support additional New Hampshire Board of Pharmacy Inspectors as proposed by legislation.

    Response: A letter of support for the legislation was submitted to the Attorney General's Office.

14. **Recommendation:** The systems of hiring, supervising and evaluating staff (both direct support and professional staff) at the provider and area agency levels must be improved so that qualified and competent people are hired and retained and unqualified people are not. Reiterating recommendations from Renewing the Vision from (Section III (G)(2001), the Governor's Commission on Area Agencies (2005), and the SB 138 Committee Reports(Work force report generally and Quality Improvement Report), and the SB 496 Study, this should include education and training and improved Salary and benefit levels.

    Response: During the last four years, BDS has made substantial revisions in a number of its regulations (e.g., He-M 503,506,517,522, 1001) to bring about greater focus and emphasis on health and medical needs of the individual being served through the Area Agency System. These regulatory improvements also included requirements for increased staff training related to health and medical needs. In response to the SB 138 Committee recommendations regarding work force development, BDS has requested in its budget additional funding for staff training, wage and benefit increases. Unfortunately, these requests were not approved. BDS will work with the recently established Quality Improvement Counsel for NHDD system to continue to monitor and address systemic performance and needs.

15. **Recommendation**: Area Agencies should incorporate into their annual service plan whether or not there are any stressors regarding future care that need to be addressed; the status of life planning and that it is reviewed on an annual basis.

    Response: The recently adopted Supports Intensity Scale (SIS) that Area Agency staff administers to individuals with developmental disabilities and families is aimed at objectively determining a person's needs and should pick up stressors in people's lives. The services in the service plan, (service agreement), should then address identified significant stressors. Additionally, the Developmental Service Quality Council recommended changes to the He-M 503 regulations that govern the service planning. The proposals would strengthen several key provisions of the evaluation and service development process designed to address behavioral or emotional problems an individual is experiencing. NH DHHS and BDS currently have those recommendations under advisement, and they will be considered for incorporation into the He-M 503 regulations when the regulations come up for re-adoption next year.

16. **Recommendation**: DHHS should take steps to ensure that there is sufficient funding so that there is no waiting list for appointment of guardians and that guardians are appointed in a timely manner including immediately or on an emergency basis as needed. When guardians are not needed but independent advocacy is, policies and practices should be developed by DHHS, Area Agencies and providers to facilitate referrals to advocacy agencies such as the Disabilities Rights Center.

    Response: The state budget adopted for the current biennium did include a small increase in the Office of Public Guardianship contract although it was more of a cost of living increase than to address the prior waiting list issue. However at least for this fiscal year and to date, there has not been a waiting list, and public guardian slots are available. The lack of a waiting list may be due to changes in the private pay professional guardianship environment. The Developmental Service Quality Council has recommended a provision be placed in the He-M 503 regulations, which come up for review in about a year, that call for the Area Agency to refer an individual to outside advocacy agencies such as the Disabilities Rights Center (DRC), when an individual needs such advocacy. That recommendation is under consideration. Under the current He-M 503 regulations and other applicable regulations, persons denied eligibility for services or for whom services are being proposed for termination or reduction, are entitled to notice of their rights to appeal and to obtain independent advocates such as DRC to represent them.

17. **Recommendation**: BBH should work with New Hampshire Hospital on the development of transitional discharge, follow-up and case management process.

    Response: BBH continues to work with NH Hospital on the development of a transitional follow-up program.

18. **Recommendation:** Engage with managed care providers regarding provision of services and ACT teams within the managed care system.

    Response: Awaiting response.

19. **Recommendation:** Encourage the elder abuse multidisciplinary wrap around teams to incorporate people with mental health issues into their reviews.

    Response: Awaiting response.

20. **Recommendations:** Encourage consistent referrals of family members to available education and support, such as and including NAMI NH family mutual support services, by all mental and medical health care providers.

    Response: Awaiting response.

21. **Recommendation:** Conduct an assessment of cases (both family care and enhanced family care situations), where quality services and positive outcomes exist, to identity and highlight positive/strength based factors.

    Response: Awaiting response.

22. **Recommendation:** The Department of Public Health and/or Board of Medicine should determine if there is a need to exercise more regulatory control over pain clinics or the physician practice.

    Response: Awaiting response.

GENERAL IAFRC POLICY STATEMENTS

1. Support efforts regarding suicide prevention and support the New Hampshire Suicide Prevention Council's state suicide prevention plan through sufficient funding for a comprehensive and ongoing mechanism for public awareness and training for key service providers.

2. Support NAMI's efforts to expand the The National Alliance on Mental Illness Connect/Frameworks Suicide Prevention Programs.

3. Support the Public Education Committee of the Governor's Commission to develop a statewide bystander responsibility campaign.

4. Support the recommendations made by the Disability Right's Center's White Paper entitled "Examining Preventable Deaths in the Developmental Services System—A Call to Action- Keeping Vulnerable Citizens Safe from Harm"

5. Support the enhancement of Crisis Intervention (CIT) Teams; increase their availability and train communities on when and how to utilize them.

6. Support Assertive Community Treatment (ACT) teams in each of the Community Mental Health Center's catchment areas.

7. Continue to consider the long-term effects of psychiatric drugs prescribed to elderly individuals who are at a heightened risk of adverse side effects and drug interactions and make recommendations as necessary additional reviews.

8. Support full and prompt implementation of the prescription drug monitoring program, including, if authorized and feasible, real-time access to information about other authorized prescriptions.

VIII. CONCLUSION

The work of the New Hampshire Incapacitated Adult Fatality Review Committee represents an important and significant step forward in the State's effort to reduce preventable deaths of its most vulnerable citizens. We hope that our recommendations will be received and considered by those organizations and agencies that are dedicated to preserving the rights and general welfare of New Hampshire's elderly and incapacitated adult population.

The challenges that face our state are not unique. As our elderly and incapacitated adult populations increase, greater strains will be placed on a system that is already overburdened and under-funded. In such an environment, competent, professional, and caring service providers will be our strongest weapon against abuse and neglect. These are the ones that we must retain while we filter out the incompetent and uncaring.

We must also provide support to the growing number of caregivers in our state. An increasing number of family members are finding themselves in situations where they are working full-time while also caring for an elderly or incapacitated parent, relative or child. We must recognize and appreciate the enormous physical and mental strains placed upon these caregivers and provide them with necessary support through counseling, respite care, and other in-home support services, and adult day services. If we do not improve the system today, it will not be there when we need it.

APPENDIX A:
STATUTORY AUTHORITY

TITLE I
THE STATE AND ITS GOVERNMENT
CHAPTER 21-M
DEPARTMENT OF JUSTICE

[RSA 21-M:16 effective January 1, 2008.]

21-M:16 Incapacitated Adult Fatality Review Committee Established. –

I. There is hereby established the incapacitated adult fatality review committee (committee) which shall be administratively attached, under RSA 21-G:10, to the department of justice.

II. The attorney general shall appoint members and alternate members to the committee. The members of the committee shall include individuals representing the health care field, organizations with expertise in services provided to incapacitated adults, law enforcement, organizations or individuals who advocate for or provide legal representation for incapacitated adults, and such other members as the attorney general determines will assist the committee in fulfilling its objectives. The terms of the members shall be 3 years; provided, that the initial members shall be appointed to staggered terms. Members shall serve at the pleasure of the attorney general.

III. The committee shall:

(a) Recommend policies, practices, and services that will promote collaboration among service providers for, and reduce preventable fatalities among, incapacitated adults.

(b) Evaluate policies, practices, interventions and responses to fatalities among incapacitated adults and offer recommendations for any improvements in those interventions and responses.

(c) Determine and report on trends and patterns of incapacitated adult deaths in New Hampshire.

(d) Evaluate and report on high risk factors, current practices, gaps in systematic responses, and barriers to safety and well-being for incapacitated adults in New Hampshire.

(e) Educate the public, policy makers, and budget authorities about fatalities involving covered incapacitated adults.

(f) Recommend improvements in the sources of data relative to preventing fatalities among incapacitated adults.

(g) Identify and evaluate the prevalence of risk factors for preventable deaths in the population of incapacitated adults.

IV. For the purposes of this section, ""incapacitated adult" means:

(a) Adults who are clients of the area agency system pursuant to RSA 171-A or RSA 137-K

at the time of the person's death or within one year of the person's death.

(b) Adults who are patients at the New Hampshire hospital or any other designated receiving facility or whose death occurs within 90 days following discharge, who are on conditional discharge, or who are applicants for or clients of the community mental health center system under RSA 135-C:13 and RSA 135-C:14 at the time of death or within one year of death.

(c) Adults who are receiving services pursuant to RSA 161-E and RSA 161-I.

(d) Adults who are participants in programs or residents of facilities specified in RSA 151:2, I(a), (b), (d), (e), or (f), or RSA 161-J, or within 90 days of discharge from such a facility.

(e) Adults who were the reported victims of abuse, neglect, self-neglect, or exploitation which was reported to the department of health and human services pursuant to RSA 161-F:46, where the report was determined to be unfounded and was filed within 6 months prior to death, where the report was determined to be founded and was filed within 3 years prior to death, or where the report was pending at the time of death.

(f) Adults who were in need of any of the services defined in subparagraphs (a)-(e) at the time of their death.

V. The committee shall adopt a protocol defining which deaths shall be reported to the committee and subject to review, and which deaths may be screened out for review, such as deaths where the cause is natural, expected, and non-preventable. The committee shall also determine whether it is appropriate to have different types of review, such as comprehensive or more limited reviews depending on the incident under review or the purpose of the review. The protocol shall also define the character of the contents of the committee's annual report, required under paragraph VII.

VI. The committee's review of a case shall not be initiated until such time as any related criminal action has been finally adjudicated at the trial court level. Records of the committee, including testimony by persons participating in or appearing before the committee and deliberations by committee members relating to the review of any death, shall be confidential and privileged and shall be protected from direct or indirect means of discovery, subpoena, or admission into evidence in any judicial or administrative proceeding. However, information, documents, or records otherwise available from original sources shall not be construed as immune from discovery from the original sources or used in any such civil or administrative action merely because they were presented to the committee, and any person who appears before the committee or supplies information as part of a committee review, or who is a member of the committee, may not be prevented from testifying as to matters within his or her knowledge, but such witness may not be asked about his or her statements before the committee, participation as a member of the committee, or opinions formed by him or her or any other member of the committee, as a result of participation in a review conducted by the committee.

VII. The committee shall make an annual report, on or before the first day of November each year, beginning on November 1, 2008, to the speaker of the house of representatives, the president of the senate, and the governor describing any trends and patterns of deaths or serious injuries or risk factors, together with any recommendations for changes in law, policy, and practice that will prevent deaths and related serious occurrences. The committee may also issue special reports when doing so is necessary to alert authorities or the public to the need for prompt corrective action.

VIII. The meetings and records of the committee shall be exempt from the provisions of RSA 91-A. The committee's reports shall not include any private or privileged information. Members of the committee may be required to sign a confidentiality agreement that prohibits any unauthorized dissemination of information beyond the purpose of the review process as a condition of membership.

Source. 2007, 256:1, eff. Jan. 1, 2008.

APPENDIX B:
CONFIDENTIALITY AGREEMENT

NEW HAMPSHIRE AND INCAPACITATED ADULT FATALITY REVIEW COMMITTEE

The purpose of the New Hampshire Incapacitated Adult Fatality Review Committee is to conduct a full examination of incapacitated adult fatalities. In order to assure a coordinated response that fully addresses all systemic concerns surrounding incapacitated adult fatality cases, the New Hampshire Incapacitated Adult Fatality Review Committee must have access to all existing records on each case. This includes social service reports, court documents, police records, autopsy reports, mental health records, hospital or medical related data and any other information that may have a bearing on the involved incapacitated adult, family and perpetrator, if applicable.

Records of the committee, including testimony by persons participating in or appearing before the committee and deliberations by committee members relating to the review of any death, shall be confidential and privileged and shall be protected from direct or indirect means of discovery, subpoena, or admission into evidence in any judicial or administrative proceeding. However, information, documents, or records otherwise available from original sources shall not be construed as immune from discovery from the original sources or used in any such civil or administrative action merely because they were presented to the committee, and any person who appears before the committee or supplies information as part of a committee review, or who is a member of the committee, may not be prevented from testifying as to matters within his or her knowledge, but such witness may not be asked about his or her statements before the committee, participation as a member of the committee, or opinions formed by him or her or any other member of the committee, as a result of participation in a review conducted by the committee

The meetings and records of the committee shall be exempt from the provisions of RSA 91-A. The committee's reports shall not include any private or privileged information.

With this purpose in mind, I the undersigned, as a representative of:

_____

agree that all information secured in any review will remain confidential and not be used for reasons other than that which was intended. No material will be taken from the meeting with case identifying information.

Print Name: _____

Authorized Signature: _____

Witness: _____

Date: _____

APPENDIX C:
INTERAGENCY AGREEMENT

INTERAGENCY AGREEMENT TO ESTABLISH THE NEW HAMPSHIRE ELDER AND INCAPACITATED ADULT FATALITY REVIEW COMMITTEE

This cooperative agreement is made between the New Hampshire Department of Justice, the New Hampshire Department of Health and Human Services and the New Hampshire Department of Safety.

WHEREAS, the parties hereto are vested with the authority to promote and protect the public health and to provide services which improve the well-being of incapacitated adults; and

WHEREAS, under RSA 125:9 II, the Department of Health and Human Services – Division for Public Health has the statutory authority to: "Make investigations and inquiries concerning the causes of epidemics and other diseases; the source of morbidity and mortality; and the effects of localities, employment, conditions, circumstances, and the environment on the public health;" and

WHEREAS, under RSA 161-F, the Department of Health and Human Services – Bureau of Elderly and Adult Services, has the responsibility to protect the well-being of elder and incapacitated adults; and

WHEREAS, the objectives of the New Hampshire Incapacitated Adult Fatality Review Committee are, as specified by the statute, agreed to be:

1. *Recommend policies, practices, and services that will promote collaboration among service providers for, and reduce preventable fatalities among, incapacitated adults.*
2. *Evaluate policies, practices, interventions and responses to fatalities among incapacitated adults and offer recommendations for any improvements in those interventions and responses.*
3. *Determine and report on trends and patterns of incapacitated adult deaths in New Hampshire.*
4. *Evaluate and report on high risk factors, current practices, gaps in systematic responses, and barriers to safety and well-being for incapacitated adults in New Hampshire.*
5. *Educate the public, policy makers, and budget authorities about fatalities involving covered incapacitated adults.*
6. *Recommend improvements in the sources of data relative to preventing fatalities among incapacitated adults.*
7. *Identify and evaluate the prevalence of risk factors for preventable deaths in the population of incapacitated adults.*
8. *Development and dissemination of an annual report to state officials describing any trends and patterns of deaths or serious injuries or risk factors, together with any recommendations for changes in law, policy, and practice that will prevent deaths and related serious occurrences and special reports when doing so is necessary to alert authorities or the public to the need for prompt corrective action.*

WHEREAS, all parties agree that the membership of the New Hampshire Incapacitated Fatality Review Committee needs to be comprehensive and to include at a minimum, representation from the following disciplines: law enforcement, judiciary, medical, mental health, public health, child protection services, consumer advocacy organizations, with specific membership from designated agencies to include, but not to be limited to: the Office of the Chief Medical Examiner, the New Hampshire Department of Justice,

the New Hampshire Department of Safety and the New Hampshire Department of Health and Human Services; and

WHEREAS, the parties agree that meetings of the New Hampshire Incapacitated Fatality Review Committee will be held no fewer than six (6) times per year to conduct reviews of fatalities:

NOW, THEREFORE, it is hereby agreed that the following agencies will cooperate with the New Hampshire Incapacitated Adult Fatality Review Committee under the official auspices of the New Hampshire Department of Justice, subject to the renewal of this Interagency Agreement. Records of the committee, including testimony by persons participating in or appearing before the committee and deliberations by committee members relating to the review of any death, shall be confidential and privileged and shall be protected from direct or indirect means of discovery, subpoena, or admission into evidence in any judicial or administrative proceeding.

The meetings and records of the committee shall be exempt from the provisions of RSA 91-A. The committee's reports shall not include any private or privileged information.

All members of the New Hampshire Incapacitated Adult Fatality Review Committee will sign a confidentiality statement that prohibits any unauthorized dissemination of information beyond the purpose of the review process. The New Hampshire Incapacitated Adult Fatality Review Committee shall not create new files with specific case-identifying information. Non-identified, aggregate data will be collected by the Committee. Case identification will only be utilized in the review process in order to enlist interagency cooperation. No material may be used for reasons other than that for which it was intended. It is further understood that there may be individual cases reviewed by the Committee which will require that a particular agency be asked to take the lead in addressing a systemic or quality of care issue based on that agency's clear connection with the issue at hand.

Attorney General	Date
Commissioner, Health and Human Services	Date
Commissioner, Department of Safety	Date