

ELDERLY AND INCAPACITATED ADULT FATALITY REVIEW COMMITTEE



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

2015 Annual Report
Released August 12, 2016

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ACKNOWLEDGMENTS

Sincere appreciation goes to the members of the Elderly and Incapacitated Adult Fatality Review Committee (EIAFRC), 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 EIAFRC has worked to honor the lives that have been lost and to examine ways to help prevent future fatalities. The EIAFRC would like to recognize and thank all of the individuals who have made presentations at EIAFRC 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.

Thank you to Alexandra Miller of the Attorney General's Office who throughout much of the year provided support and information to the EIAFRC members and coordinated the work of the committee and to Stacey MacStravic who assumed these responsibilities after Alexandra Miller resigned. A special thanks also goes to Elizabeth Fenner-Lukaitis who as a member of this committee assumed many responsibilities for coordinating the work of this committee during the several months interval from Alexandra Miller's departure to Stacey MacStravic's hire. Finally, we wish to acknowledge the members of the EIAFRC who volunteered to participate as the sub-committee that developed this annual report that included Lynda Ruel, Kaarla Weston, Elizabeth Fenner-Lukaitis, Stacey MacStravic and Don Rabun.

A very special thank you goes to Don Rabun, the State's Long Term Care Ombudsman and Chair of the EIAFRC. Don dedicated his entire career to the service of others in the state of New Hampshire. In July of 2016, Don retired from state service. Don was a member of the fatality review committee since its inception in 2008. In 2013, Don took on the additional responsibility of becoming Chair of the EIAFRC. Don's passion for the care, rights and services for older and incapacitated adults was inspiring to every member of the committee. Through his leadership style, Don made sure all members of the committee had a voice at the table and that everyone's input was important.

ELDERLY AND 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

ELDERLY AND 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
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EIAFR Committee Coordinator
Office of Victim/Witness Assistance
NH Attorney General's Office

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NH Council on Developmental Disabilities

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Carol Stamatakis, Esq.
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NH Council on Developmental Disabilities

*= denotes Executive Committee Member

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 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, Incapacitated Adult fatality review teams are only just starting to develop.¹

The Elderly and Incapacitated Adult Fatality Review Committee (EIAFRC) or "Committee" is a group of professionals from many different organizations, agencies and branches of government that convenes regularly 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 elderly and incapacitated adults and their families. By statute the primary emphasis is on reviewing selected deaths of elderly or incapacitated adults who are receiving or were recently receiving services or potentially should have been receiving services from the mental health system (including NH Hospital), the Area Agency system (which services individuals with developmental disabilities or acquired brain injuries), the elderly service system, licensed care and treatment facilities or were reported to the Bureau of Adult and Elderly Services as victims of abuse, neglect or exploitation. RSA 21-M (IV).

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 elderly and incapacitated adults and their families.

II. HISTORICAL BACKGROUND

In 2007, House Bill 862-FN, sponsored by State Representatives Schulze, MacKay, Donovan, Emerson, French and Senator 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, creating the Elderly and 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

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*.

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.

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](#)).

CASE REVIEW PROTOCOL

1. The EIAFRC 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 Elderly Incapacitated Adult Fatality Review Committee (EIAFRC).
4. Once the EIAFRC Executive Committee identifies a case for review, the EIAFRC Chairperson or Staff Assistant will send case information to EIAFRC members in a sealed envelope marked “Confidential” prior to the scheduling of the case for review at an EIAFRC 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 EIAFRC members should gather necessary information pertaining to the specific case and report this information and their organization’s involvement or non-involvement during the EIAFRC meeting.
6. At the EIAFRC 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 EIAFRC 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 EIAFRC Executive Committee, comprised of members of the EIAFRC, assesses case information to be reviewed by the EIAFRC and performs other business as needed.
12. The EIAFRC 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.

IV. REVIEW AND ANALYSIS OF DATA

The need for the EIAFRC to focus on the prevention of deaths is underscored by the fact that many of the individuals who are the subject of the reviews already have many biopsychosocial stressors in their lives that can put them at a higher risk of injury and/or death.

The Adverse Childhood Experiences (www.cdc.gov/ace/index.htm) study cites “...findings suggest that certain experiences are major risk factors for the leading causes of illness and death as well as poor quality of life in the United States. It is critical to understand how some of the worst health and social problems in our nation can arise as a consequence of adverse childhood experiences. Realizing these connections is likely to improve efforts towards prevention and recovery.” Some of the health and social problems that can develop as a result of ACE scores include substance misuse, suicide, sexual abuse and exploitation as a child or an adult, and physical conditions such as Chronic Obstructive Pulmonary Disease, liver disease and lung cancer. The individuals whose deaths are reviewed were either past recipients of services of the agencies represented on the EIAFRC, or potentially should have been receiving services.

While the EIAFRC cannot capture the prevalence of ACES for the population it addresses, anecdotally, many of the cases reviewed do have a history of at least one ACE.

CHOKING

The EIAFRC reviewed deaths that were due to choking. A presentation by one of the Committee members, Dr. Alex de Nesnera (Associate Medical Director for New Hampshire Hospital) showed that individuals with serious mental illness (especially schizophrenia), who may also be elderly, with poor dentition and/or eating habits, and who may be taking medications with certain side effects are at an increased risk of choking (Gasping for Relief, *Current Psychiatry*, October 2010).

NH FALLS TASK FORCE

A meeting was devoted to the risk of injury and deaths resulting from falls. There was a presentation by the New Hampshire Falls Risk Reduction Task Force.

New Hampshire Facts about Elderly Falls

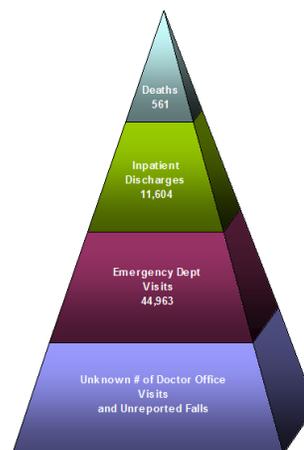
- Each year, one-third of people age 65 and older and one-half of those 80 and older will fall.
- Among older adults, falls are the leading cause of injury death. On average, more than 90 people die each year in New Hampshire as a result of a fall.
- The majority of falls (60%) occur at home.
- More than 90% of hip fractures among adults ages 65 and older are caused by falls.
- Over 1500 older adults hospitalized per year on average due to falls.
- In New Hampshire, there were more than two thousand older adults who were hospitalized due to falls. More than half could not return home or live independently.
- Falls are not a normal part of aging. Older adults can take several steps to protect their independence and reduce their risk of falling.

The graphics below illustrate the amount of care and resources devoted to falls and the populations most at risk for injuries related to falls (which happen to coincide with the population the EIAFRC serves).

New Hampshire Falls Data 2009*

- Emergency Room visit rates due to falls in 2009 was 4,622.8 per 100,000
- Costs for fall related hospitalizations and emergency room visits in 2009 was \$105.6 million

**2009 is the last year that reliable data for injuries from falls was available*



An additional presentation by a Committee member, Dr. Thomas Andrew (Chief Medical Examiner, State of New Hampshire) of a “one year snap shot” of the deaths under the

jurisdiction of the Office of Chief Medical Examiner (OCME) showed that just slightly under half of the deaths (46.6%) were ruled “Accidental”. “Falls” accounted for a little less than half of the Accidental deaths (286). Deaths from hip fractures accounted for approximately 115 of these deaths.

Falls

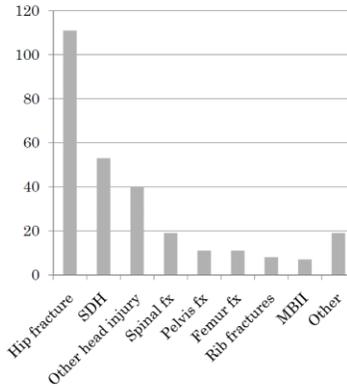
N = 286

Age 25-100

Mean age

76.9

53% female



STATE of NEW HAMPSHIRE

SUICIDE

A third focus of EIAFRC meetings were joint meetings held with the Suicide Fatality Review Committee. Suicide was the 9th leading cause of death in New Hampshire between the years of 2009-2014 for individuals ages 18-85 + (the ages covered by the EIAFRC).

| Age Groups | |
|------------|---|
| Rank | 18-85 |
| 1 | Malignant Neoplasms 15,732 |
| 2 | Heart Disease 14,099 |
| 3 | Chronic Low. Respiratory Disease 3,930 |
| 4 | Unintentional Injury 3,389 |
| 5 | Cerebro-vascular 2,855 |
| 6 | Alzheimer's Disease 2,297 |
| 7 | Diabetes Mellitus 1,677 |
| 8 | Influenza & Pneumonia 1,222 |
| 9 | Suicide 1,162 |
| 10 | Nephritis 1,045 |

V. RECOMMENDATIONS

This report contains the recommendations made by the EIAFRC, the corresponding responses, and what has been accomplished through the recommendation.

TRAINING

1. **Recommendation:** To educate the Community Mental Health Centers, and the Developmental Disability and Acquired Brain Disorder providers about choking risks.

Response: The State of New Hampshire's ten Community Mental Health Centers, ten area agencies for Developmental Disability Services and Acquired Brain Disorder Services as well as hospitals with psychiatric inpatient units, received the articles and other educational materials presented during the meeting.

2. **Recommendation:** To educate the Community Mental Health Centers and the Developmental Disability and Acquired Brain Disorder providers about the risks related to falls.

Response: The State of New Hampshire's ten Community Mental Health Centers, ten area agencies for Developmental Disability Services and Acquired Brain Disorder Services as well as hospitals with psychiatric inpatient units, received the articles and other educational materials presented during the meeting.

3. **Recommendation:** To communicate with various industry organizations who serve elders and incapacitated adults in residential settings and request that the information related to the significant risk of falling or choking among those with mental illness and other psychiatric residents be shared with their members.

Response: A member of the committee successfully arranged to have this information shared with the memberships of the New Hampshire Health Care Association, the New Hampshire Association of Residential Care Homes and Leading Age Maine/New Hampshire. These three industry organizations include virtually all nursing homes and assisted living facilities in New Hampshire and even some nursing homes and assisted living facilities in Maine.

4. **Recommendation:** Explore what type of interface the NH Fall and Risk Reduction Task Force has with medical responders.

Response: The Clinical Systems Coordinator from the New Hampshire Bureau of Emergency Medical Services (EMS) attended the Falls Risk Reduction Task Force Meeting on April 4, 2016, and learned of other fall prevention programs within the state. The Concord Fire Chief will be contacted to discuss their efforts in implementing a fall reduction program and how it could be implemented with other EMS and fire programs.

5. **Recommendation:** Explore the possibility of the NH Fall and Risk Reduction Task Force presenting at the fall EMS conference.

***Response:** The Clinical Systems Coordinator from the New Hampshire Bureau of Emergency Medical Services will contact the EMS Conference planners and ask them to reach out to the Falls Risk Reduction Task Force and ask them to present at the 2016 fall EMS Conference.*

6. **Recommendation:** Display the “Stay Independent” brochure at the following conferences: Bureau of Developmental Services (BDS) Family Support, Coalition of Caring, and Allies and Self Advocacy and Direct Support Professionals.

***Response:** The “Stay Independent” Brochure was displayed at the BDS Family Support Conference (attended by over 500 families in May 2015), the Direct Support Conference (attended by 400), the Advocate New Hampshire Conference (attended by 170), the Learn It, Live It Conference (attended by 80) and the Caregivers Conference (attended by 200).*

7. **Recommendation:** Explore the benefits and efficacy of police outreach programs.

***Response:** Discussed “Are You Ok” program with the Bedford Police Department. An officer from the department reported that it was a positive experience for the participants despite a low utilization rate, even with outreach to recruit participation, which is voluntary. The program requires funding; the department did fundraising in addition to the department’s regular budget. The EIAFRC encourages police departments to explore implementing similar programs.*

8. **Recommendation:** Create a pamphlet about choking risk for the Annual Care Givers Conference.

***Response:** This recommendation was made after conference materials had already been developed for the 2015 conference, but will be provided at the 2016 conference.*

PUBLIC AWARENESS

1. **Recommendation:** Explore with, and provide education to, the Division of Motor Vehicles regarding resources for older adults who fail their driving exams.

***Response:** Discussions are occurring between EIAFRC and the Department of Motor Vehicles regarding the possibility of including information that may be of use to individuals at risk of failing their examinations.*

2. **Recommendation:** Implement model strategies and policies for debriefing staff working with emotionally difficult cases.

Response: Information regarding contacting the State of New Hampshire's Disaster Behavioral Health Response Team (DBHRT) was shared with BDS and its providers.

3. **Recommendation:** Facilitate the dissemination of information to funeral directors referencing services to individuals who may be in need of additional supports following the death of a loved one.

Response: An electronic brochure for the Referral Education Assistance & Prevention (REAP) program was sent out to all New Hampshire funeral directors. REAP was featured in the New Hampshire Funeral Directors summer newsletter.

4. **Recommendation:** Invite the Amherst police department to do a short presentation on their "Good Morning, Amherst" program.

Response: The Amherst police sent an officer to a follow up meeting and provided a comprehensive presentation on their "Good Morning, Amherst" program.

POLICY

1. **Recommendation:** The Bureau of Developmental Services will align the concepts that were presented during the meeting that addressed choking risks, which are more prevalent in individuals with schizophrenia, to be included in the Health Risk Screening Tool (HRST).

Response: The Bureau of Developmental Services (BDS) reviewed and discussed the Health Risk Screening Tool (HRST) with The Developmental Disabilities Nurses of New Hampshire group to ensure the risks of choking were adequately covered in their assessments. A comprehensive review of the multiple strategies available to mitigate choking risks was provided to agencies.

2. **Recommendation:** The Bureau of Developmental Services will align the concepts that were presented during the meeting that addressed mitigating falling risks, which are common for New Hampshire's older adults, to be included in the Health Risk Screening Tool (HRST).

Response: The Bureau of Developmental Services (BDS) reviewed and discussed the Health Risk Screening Tool (HRST) with The Developmental Disabilities Nurses of New Hampshire group to ensure the risks of falling were adequately covered in their assessments. A comprehensive review of the multiple strategies available to mitigate fall risk was provided to agencies. In addition, information regarding the benefits of martial arts and keeping the elder population limber with greater stamina and stability was provided to the Area Agencies.

3. **Recommendation:** Support the regular scheduling of readmissions/visits to New Hampshire Hospital if clinically appropriate.

Response: New Hampshire Hospital has created individual, patient specific plans for those individuals who would benefit from this intervention, especially those who have been hospitalized long-term and would benefit from a structured reintegration back into the community.

GENERAL EIAFRC POLICY STATEMENTS

The following recommendations were also generated from case reviews conducted during the reporting period of this report. Some were immediately tabled due to lack of resources and the inability to implement. Others are policy statements the Committee wanted to issue.

1. The EIAFRC continues to support the recommendations made by the Disability Rights Center’s White Paper entitled “Examining Preventable Deaths in the Developmental Services System—A Call to Action- Keeping Vulnerable Citizens Safe from Harm”
2. The EIAFRC continues to support studies that 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 at additional reviews.
3. The EIAFRC supports the education and training provided by The New Hampshire Fall and Risk Reduction Task Force.
4. The EIAFRC supports the Department of Health and Human Services efforts to increase the variety of residential options for individuals with multiple intellectual and/or mental health diagnoses with challenging or high risk behaviors.

VI. CONCLUSION

The New Hampshire Elderly and Incapacitated Adult Fatality Review Committee is a significant component of the State of New Hampshire’s effort to reduce or prevent deaths of some of its most vulnerable citizens. The Committee hopes that the education provided, and the recommendations made will be seen as valuable by the organizations and agencies dedicated to the services for New Hampshire’s elderly and incapacitated adult populations.

The challenges that face our state in providing services to these populations are not unique to New Hampshire. The needs of the ever-increasing elderly and incapacitated adult populations strain a system that is already overburdened and under-funded. However, despite these challenges, there are numerous competent, professional, and caring service providers working to mitigate the risk of unnecessary and premature deaths. We honor these professionals for their ongoing dedication. The Committee also recognizes the need to provide supports to these professionals in times of adverse events in order to allow them to continue their dedicated work.

The Committee supports the growing number of caregivers needed to continuously support the work that is twenty-four hours a day, seven days a week and three-hundred and sixty-five days a year. Family members are finding themselves working full-time while also caring for an elderly or incapacitated parent, relative or adult child. These individuals and families need to be provided with the necessary supports to continue these rewarding but often demanding tasks. These services may include assistance to the individuals and/or the caregivers in the form of: personal care, advocacy, counseling, respite care, in-home support services, and adult day services.

“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

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 subparagraph (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 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 ELDERLY 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