

# RAP Sheet

The Latest in Disability Research, Advocacy, Policy, and Practice

Winter Issue 2009

## PLEASE DON'T HURT ME



### BULLIED

Kestrel Cole-McCrea

*Welcome to the Winter issue of the Rap Sheet. People with disabilities are at significantly greater risk for abuse, neglect, and exploitation than people without disabilities. In this issue we look at what can be done to confront this problem. We hope that you will join us in working to ensure that all people, especially those who are the most vulnerable, are able to live free from fear and violence.*

I am 14. I am adopted. I am Mayan and Mohawk Indian. I am in the 9th grade. I am in special ed. I have fetal alcohol syndrome, Aspergers, and depression. I am bullied.

Although my school is a small one, I receive tons of remarks and insults from the older high schoolers. I stand up tall to these insults, but it rips my insides to shreds. It reminds me of what my people went through... slavery, wars, famines. Even while the teacher lectures on history, including Indian history or the Civil Rights Act, students still spit in my face and push me around like I am trash.

When I am bullied, I have been told to go and tell the vice principal. I used to do that. I stopped because every time I told what happened, he would call the other kids

in. They would know that I told on them and they would be meaner to me. Now I have to just let them bully me more and more all the time. All I can do is try to stop caring about everyone and get tough and mean myself. I am trying not to ever have any more feelings about anyone. The world is too mean.

I used to be home schooled because I could not handle crowds, but when I turned 12 my mother thought I should learn to handle people and sent me to school. I

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Kestrel Cole-McCrea

*(Cover story continued)*

am learning to be tough. I used to be kind. I am not kind any more. I have a few kids I hang with, but I do not have close friends. When I come home from school I do not want to be with any kids. I just want to be alone, safe at home.

When I was home schooled, I was not depressed. Now I am on medicine because I am depressed. Sometimes I hate school. My mother asks me if I would like to be home schooled part time and I cannot make up my mind. I want to be with other kids and to be liked by them, but they do not like me.

Some of it is my fault. Last year, I stole money and small items from some students. I wanted to get even. I try not to do this any more. I try to just stand there and take it, but I am angry. Although I am in Special Education, I don't think that this bullying should be allowed. Adults cannot treat other adults like this, so why do kids get to do it? Everyone at every age should be treated the same under the law.

Speaking of the law, the police say that I may wind up in jail for my anger and stealing. My mother says she is working hard with other people in the state to help people like me, so that when we grow up, we will not have to be in prison or in a mental place. I hope she and the others she works with will be able to make things better.

I wish I could just be a little kid again, home schooled by my adopted mother, who takes such good care of me and protects me from everyone. I do not understand why kids hate me and treat me so mean. I did not steal until after they started treating me so mean.

I know I am wrong for stealing, but when I stole I felt powerful instead of weak. Being angry and mean sometimes makes me feel strong. I am sorry I have stolen; I really am, but I want to feel stronger so sometimes I still do it. I have mostly stolen things I do not even want, but I know they cannot stop me. No one can and that feels powerful.

I do not know what will happen to me. I am only 14 and I hurt inside. I am scared to grow up. I am scared that no one will ever love me except my mother. I am scared that I will let my anger ruin my life.

I see a counselor, but it does not help. Talking to her just makes me more angry over and over again. She does not know how to help me and that makes me feel more afraid.

What has happened to adults that they let kids bully in schools? I want change. This has gone on long enough. Even though I am in lower level classes, have ADHD, Aspergers and FAS, I am still as equal inside as they are. They are just proving to me that the people who conquered the American Indian nations are still as mean and racist today as they were 200 years ago.

I know there are good people of every color . . . it is to these people I am writing this. I am hoping that they will stand up for us and help make change.

## What is bullying?

Bullying is an intentional aggressive behavior that involves an imbalance of power or strength and is often repeated over time. There are many forms of bullying, including hitting, kicking, or shoving (physical bullying), teasing or name-calling (verbal bullying), intimidation through gestures or social exclusion (nonverbal bullying or emotional bullying), and sending hurtful or intimidating messages by text message or e-mail (cyberbullying).

### What do we do know about bullying for children and young adults with disabilities?

Research indicates that children with disabilities may be at particular risk of being bullied by their peers. For example:

- ♦ Children with Attention Deficit Hyperactivity Disorder (ADHD) are more likely than other children to be bullied and are somewhat more likely than others to bully their peers (Unnever & Cornell, 2003).

## What can schools do to

Please draw me a picture of a bully. This is a request that I make whenever I work with adults on bullying prevention. Then I ask, "Is the bully a boy or girl? Big or small? Smart or dumb? In regular ed or special ed?" The bullies drawn by adults are almost always big, special ed. boys. When asked the same questions, the bullies drawn by students are much less likely to match this stereotype.

For more than a decade, Main Street Academix has been conducting research and developing training and leadership programs to address bullying and improve school climate. When we begin working

- ◆ Children who have medical conditions – i.e. cerebral palsy, muscular dystrophy, and spina bifida – that affect their appearance are more likely to be victimized by peers and are frequently called names related to their disability (Dawkins, 1996)
- ◆ Children with hemiplegia (paralysis of one side of their body) are more likely than other children their age to be victimized by peers, to be rated as less popular than their peers, and to have fewer friends than other children. (Yude, Goodman, & McConachie, 1998).

### What are the consequences of bullying?

For children who are bullied, the consequences can be serious; research has found that children who are frequently bullied are more likely than their peers to:

- ◆ Have low self esteem
- ◆ Suffer from depression
- ◆ Have suicidal thoughts and tendencies
- ◆ Experience headaches, stomach aches, and poor appetites
- ◆ Dislike school and have a greater number of school absences.

Most students do not report bullying to adults; typically victims and witnesses fail to tell teachers or even parents

about bullying incidents. As a result, the extent of bullying in schools is often underestimated and teachers may be able to identify only a small portion of the bullies in their classrooms. Studies also indicate that children do not believe that most teachers will intervene when told about bullying.

Bullying and harassment in schools is a complex issue and one that typically is not addressed through standard interventions or by most school reform initiatives. In an effort to create school cultures that are free from bullying and harassment, the Institute on Disability's APEX II (Achievement in dropout Prevention and Excellence) Project is working collaboratively with Dr. Bill Preble of Main Street Academix. The project, which is working in a number of New Hampshire high schools, utilizes a combination of Positive Behavior Interventions and Supports, Rehabilitation, Empowerment, Natural supports, Education and Work (RENEW) an intensive individualized school-to-career service for the most at risk students, and development of effective student leadership to address dropout prevention and improve school climate.

For more information about PBIS and the APEX II project go to [www.iod.unh.edu/apex.html](http://www.iod.unh.edu/apex.html)

## address bullying?

Bill Preble, Ph.D. Professor of Education at New England College and Main Street Academix Founder

with a school, we ask that the school select a diverse group of students, one that includes bullies and victims, to serve on a Student Leadership Team. You would not believe how hard it is for schools to put together this team.

In our experience, students who are invited to join their school's Leadership Team feel honored to be chosen to work on this difficult issue. My colleague, Bill Cumming taught me long ago about what he calls, "the dignity of expertise." We have found that empowering young people as the "real experts" on their school's culture can be a transformational experience for these students. Working with the Student Leadership Team also is a wise move for teachers and administrators as it provides them with a much more accurate picture of what is really happening inside their school.

When we first began to look seriously at school climate and bullying we selected a group of 30 student "experts" who carried pagers, set on vibrate, as they went through their typical school day. Every hour or so, we would "beep" their pagers, to signal students to look and listen for any examples of respectful and disrespectful language and behavior that were going on around them at that moment. When we beeped a second time the students would write down what they saw and heard.

From thousands of these "expert" school observations and from hundreds of interviews following the beeper studies, we came to understand the following about school climate and bullying:

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# Positive Behavioral Interventions and Supports – New Hampshire:

JoAnne M. Malloy MSW, Project Coordinator, UNH Institute on Disability; Howard Muscott Ed.D., Director,

Today's schools are under increased pressure to improve academic achievement and meet the unique and significant social and emotional needs of all students. There is also a great deal of concern among educators, parents, students, and communities about safety in our schools. Positive Behavioral Interventions and Supports-NH (PBIS-NH) provides a systemic response to creating positive school environments and supporting the increased inclusion of students with emotional disabilities. Over the past seven years, PBIS-NH has helped more than 140 NH schools and early childhood programs enhance school climate, promote social-emotional development, as well as prevent and reduce problem behaviors, office discipline referrals, suspensions, expulsions, and school dropout rates.

PBIS-NH uses evidence-based theories of human behavior and learning, shared leadership, collaborative teaming, and data-based decision-making to support schools in a positive, preventative approach to school discipline.

PBIS-NH provides primary prevention and behavior support to all students by helping schools create core behavioral expectations in various school contexts and then systematically teaching and encouraging those behaviors. Instead of focusing solely on punishment responses to inappropriate behaviors (being sent to the office, detentions, or suspensions) the program helps teachers and administrators focus on behaviors that they want to see in their students, such the use of respectful language, being on-time-to class, completing academic assignments, and being kind to others. For example, one NH high school identified respectful classroom behavior as a project for one quarter of the school year. Students worked with the teachers to design and role-play examples of disrespect and respect, and students were randomly recognized when they displayed respect in the classroom. Incidents of disrespect went down during the quarter by 64%, and students and teachers reported a much more welcoming environment in their school.

PBIS-NH also helps schools develop targeted systems and practices to identify early those students who require additional support in order to function well in school. Targeted group interventions that connect students with teachers and peers, teach social skills, and address academic needs are developed in response to student need. For example, at one elementary school, a service-learning group was developed to address students' needs for belonging, skill mastery, and generosity. Students assigned to the group activity, which lasted for 6 weeks, designed and created a large mural in the school. Data indicated significant reductions in major problem behaviors for the students for the rest of the school year!

Finally, PBIS-NH provides schools with individualized approaches that are matched to the level of challenge presented by students who have more complex needs. For these students both school-based and community-based interventions may be required. In school, trained teams complete a function-based assessment and planning process with families. The process, called function-based support, is designed to determine why the student continues to exhibit problem behaviors. This process was developed in recognition that the student is gaining something, avoiding something, or having a need met through his or her inappropriate behavior. Through the assessment and planning process, teachers learn how to respond to the student's need without inadvertently reinforcing the unwanted behavior. The student is taught socially appropriate replacement behaviors to get his or her needs met, rather than relying on the problem behavior. Many students can stay in and even flourish in typical classrooms when this type of intervention is applied.

Students who have significant needs (such as major stressors at home, illness, homelessness, or mental health challenges) that must be addressed





# *A Systematic Approach to Meet the Social and Emotional Needs of All Children and Youth*

the NH Center for Effective Behavioral Interventions and Supports; and Maureen Tracey, PBIS Consultant

beyond the school environment receive assistance to develop an individual support team. The student's team uses a wrap-around approach that focuses on the needs of the family and the child, as defined by the family. The team works to help the child succeed at home, in school, and in the community.

PBIS-NH represents a 180-degree shift in how schools view behavior support and discipline for children and youth, particularly for students with major behavioral and emotional challenges. Instead of an approach that focuses on the deficits of the child and family, PBIS-NH looks at the function of behavior and creates a systematic and consistent set of expectations for everyone in the school community, including the adults. Relying only on punishment can be traumatizing to children, especially children who have high risk factors such as an emotional or behavioral disorder or a history of abuse and neglect. In schools that rely primarily on punishment, we are far more likely to find students bullying other students, acts of vandalism, and adults verbally criticizing students.

PBIS-NH offers schools a road-map for making the shift from a punishment-only response to a more balanced approach that fosters encouragement for every  
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## **STOP BULLYING NOW! LEND A HAND. TAKE A STAND.**

The US Dept of Health and Human Services Health Resources and Services Administration has a national campaign on bullying prevention. Information can be found on the HRSA website and at [www.stopbullyingnow.hrsa.gov](http://www.stopbullyingnow.hrsa.gov). This website has a wealth of information including:

### **WHAT DO WE KNOW ABOUT BULLYING**

#### **ACTIVITIES GUIDE**

Making it work for your school and community

#### **STOP BULLYING NOW! TIP SHEETS**

The Scope and Impact of Bullying

Children Who Bully

Warning Signs That A Child is Being Bullied

Bullying Among Children and Youth with Disabilities and Special Needs

Best Practices in Bullying Prevention and Intervention

Myths About Bullying

What Communities Are Doing

Community-Based Bullying Prevention: Tips for Community Members

Working with Young People Who are Bullied: Tips for Mental Health Professionals

Working with Young People Who Bully Others: Tips for Mental Health Professionals

Understanding Bullying Within the Camp Setting: Tips for Parents

Research-Based Articles and Books on Bullying and Peer Victimization

Bullying in Out-of-School Time Programs: Tips for Youth-Serving Professionals and Volunteers

Misdirections in Bullying Preventions and Interventions

#### **INFORMATION FOR PARENTS AND CHILDREN**

What To Do If Your Child is Being Bullied

How to Talk with Educators at Your Child's School About Bullying: Tips for Parents of Bullied Children

What should I do if I'm bullied?

What can students/youth do to "lend a hand?"

#### **INFORMATION FOR EDUCATORS AND SCHOOL STAFF**

How to Intervene to Stop Bullying: Tips for On-the-Spot Intervention at School

Providing support to children who are bullied: Tips for School Personnel (and other adults)

Steps to Address Bullying at Your School: Tips for School Administrators

Providing support to children who are bullied: Tips for School Personnel (and other adults)

Documenting Bullying at Your School: Tips for School Administrators



## WHEN DISCIPLINE GOES TOO FAR:

### *Limiting the use of Restraint and Seclusion for Children with Disabilities<sup>1</sup>*

Karen Rosenberg, Disabilities Rights Center

Your daughter's emotional challenges are exacerbated by her increasing frustration with her speech and language delays. When her frustration and anxiety levels peak, she throws her books to the floor and engages in other behaviors that upset her teacher and peers. While your daughter's IEP includes a goal to address her challenging behaviors, she has not made any progress in this area. In fact, things have gotten worse. For the past two weeks you have received daily phone calls from the school regarding your daughter's behavior. Now when she disrupts the class, teachers and paraprofessionals have been taking her to a time-out room to "cool down." There have been days when your daughter has been removed from her classroom for more than an hour. On a few occasions, when she has refused to go to the time-out room the teachers have placed her in a basket hold (a form of physical restraint). Your daughter no longer wants to go to school. In addition to missing classroom time, she also has missed multiple sessions with her speech-language pathologist. What can you do to help get your child back on track?

Your first step should be to request a team meeting to discuss your child's progress and to consider implementing positive behavioral interventions, supports and other strategies to address her behavior. The Individuals with Disabilities in Education Act (IDEA) requires the IEP team to consider using such positive behavior strategies when the child's "behavior impedes the child's learning or that of others." If your child's behavior has escalated to the point that she has been suspended or removed from school for more than ten days in a school year, under IDEA, the IEP Team must perform a functional behavioral assessment (FBA) and develop a behavior intervention plan to address the behavior.

If your daughter's behavior is impeding her progress in school, you should ask the school to provide a functional behavioral assessment, preferably by a qualified behavior consultant who will view the situation objectively. Frequent removals from the classroom (or "timeouts") are disruptive to your child and deprive her of important teaching and learning opportunities. No behavior plan should emphasize time-out as the primary behavioral intervention. In fact, the New Hampshire Department of Education (DOE) has adopted rules which require that "positive behavioral interventions based on the results of a behavioral assessment shall serve as the foundation of any program used to address

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<sup>1</sup> This article focuses on the rights of children with disabilities who are receiving special education and related services pursuant to the Individuals with Disabilities in Education Act (IDEA), 20 U.S.C. § 1400 et seq.

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child, including the children who are difficult to engage. Schools that have adopted PBIS have fewer behavior problems, suspensions and expulsions, more consistent discipline systems, and increased time for teaching and learning. In addition, children with significant emotional and behavioral issues will be more likely to have their social and emotional needs met and will be more successful in the classroom if they are in a school that has adopted the PBIS-NH model.

PBIS also offers supports to families. Families that have been involved with PBIS have seen better results for their children both in school and at home. When there is teach-

ing, practice, and positive reinforcement of the expected behaviors, the child becomes more confident. When the child feels that his or her voice is heard and that problems can be solved, the child feels successful and the main focus turns back to academic and social achievement.

PBIS-NH is coordinated by the New Hampshire Center for Effective Behavioral Interventions and Supports at SERESC and a dropout prevention project, APEX II, at the Institute on Disability at UNH. For more information, visit [www.nhcebis.seresc.net](http://www.nhcebis.seresc.net) or call the Center at 603-206-6800. Additional information about Positive Behavioral Supports can be found online at [www.pbis.org](http://www.pbis.org).

a student's behavioral needs." You should work with your daughter's IEP Team to develop positive strategies to enable your daughter to stay in the classroom.

There are many physical and psychological risks associated with using any type of physical restraint. For children with particular medical conditions, such as obesity, asthma, or heart conditions, all methods of restraint may be unsafe or potentially lethal. It is important to share any medical concerns with your child's doctor and IEP team. If medically indicated, make sure your child's behavior plan states that physical restraints may *never* be used. Also, make sure that the school notifies every staff member who may have contact with your child about the positive behavior strategies that should be implemented, restrictions regarding physical contact, and the plan for emergency intervention.

The DOE has adopted rules regarding the use of behavioral interventions, including restraints, which schools must follow. According to these rules, your child should not be subjected to any form of physical restraint unless her behavior poses a threat of imminent, serious, physical harm. The DOE has published Model Policies and Procedures for the Use of Physical Restraints. The DOE recommends that school districts adopt policies to ensure the physical safety of students and staff when a student is at substantial risk of harming themselves or others. You may wish to review the DOE's guidance document for more information on the use of physical restraints. This document is available at <http://www.ed.state.nh.us/education/doe/organization/instruction/SpecialEd/documents/FY2003Memo13PhysicalRestraintDocument.pdf>. In addition, you should request your school district's policies and procedures on the use of physical restraints.

If you have not already received detailed information concerning the incidences your daughter was restrained (e.g. duration of restraint, personnel involved and training of this personnel), you should obtain that information from the school. You also might compare the information you receive to the policies and procedures in place at your district. If

the school's policies are not adequate and/or were not followed, you might consider filing a complaint with the NH Department of Education.

Finally, make sure that your daughter's IEP includes her positive behavior plan. If her behaviors have escalated to the point that emergency intervention may be necessary (after efforts to de-escalate and provide positive supports have failed and only if there is an imminent threat of serious physical harm), the IEP Team should develop a crisis intervention plan outlining appropriate emergency intervention procedures. The positive behavior and crisis intervention plans should be included in your daughter's IEP.



Photo credit: Julia Freeman-Woolpert

## For Additional Information...

- *A Parent's Guide to Protecting Your Child From the Use of Restraint, Aversive Interventions, and Seclusion*, from TASH

[www.tash.org/publications/parentguide/index.htm](http://www.tash.org/publications/parentguide/index.htm)

- *Preventing Physical Restraints in Schools: A Guide for Parents, Educators & Professionals*, from the NH Education Law Resource Center.

[www.edlawrc.com/restraint\\_prevention\\_project.htm](http://www.edlawrc.com/restraint_prevention_project.htm)



## National Disability Rights Network Releases Shocking Report on Seclusion and Restraint In U.S. Schools

On January 13, 2009 the National Disability Rights Network (NDRN) unveiled a disturbing national report on the use of seclusion and restraint in U.S. schools and called on the Obama Administration and the 111th Congress to introduce a national ban on seclusion and prone restraint practices in schools.

This report identifies the abusive use of restraint or seclusion nationwide by school administrators, teachers, and auxiliary personnel, which has resulted in injury and trauma and, in far too many cases, death to children with disabilities. Some may think these are isolated incidents, but, when Protection and Advocacy (P&A) agencies

across this country report that school children have been killed, confined, tied up, pinned down, and battered, this is clearly more than an isolated issue – it is one of national concern. Furthermore, because there is no mandated system in place to report or collect data on these abuses, this report is clearly just the tip of the iceberg.

Swift action to ban the use of prone restraint and seclusion in schools, and increased teacher training will eliminate unintentional tragedies. It is the hope of the National Disability Rights Net-

work that calling attention to this pervasive problem will spur action on the local, state, and national levels to address this crisis immediately.

More information can be found at the National Disability Rights Network website [www.ndrn.org](http://www.ndrn.org)



## Disabilities Rights Center: *Legal Advocacy to Prevent Abuse and Neglect*

Aaron Ginsberg, Esq., Staff Attorney

Abuse and neglect can happen to anyone and can occur anywhere. Abuse is an affirmative act intended to inflict pain. Neglect is the omission of an action by a responsible individual that results in harm. People can be abused or neglected in their homes or in institutional settings including hospitals, schools, or nursing facilities. Children, the elderly, and people with disabilities are especially likely to be victims of abuse and neglect. Often those inflicting abuse and neglect are the very ones upon whom a vulnerable individual most relies. These abusers often perceive children, older people, and those with disabilities as weak, voiceless, or less entitled to appropriate treatment and respect.

The Disabilities Rights Center (DRC) is committed to protecting people from abuse and neglect, inappropriate

restraint and seclusion, coercion, and other harm. When the DRC receives a report of abuse and neglect the agency advocates on behalf of the individual to ensure that the person's rights and safety are protected and that appropriate investigations and corrective or remedial actions are taken. The DRC also works on a systemic level to ensure that state and community services include adequate safeguards and preventive measures to protect New Hampshire citizens. (See Richard Cohen's article on page 12 for examples of statewide initiatives addressing this issue.)

DRC attorneys and advocates use a variety of tools to protect people who are neglected or who are in abusive situations. When the agency accepts a case involving abuse or neglect it can choose to file a complaint requesting that a state or federal agency conduct an investigation or DRC may exercise



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- ◆ Popular, successful students were often the real perpetrators of bullying towards weaker, less powerful, less successful, and less socially accepted students.
- ◆ Adults, even when they were in the proximity of bullying incidents, almost never saw or intervened in what was happening.
- ◆ While there were a incidences of physical bullying, most bullying was low-level verbal bullying with students being called names such as, "retard," "loser," or "fag."
- ◆ Almost no students intervened when they saw bullying, and in fact, popular bullies often were cheered on or encouraged by other students, giving these bullies an even greater social status.
- ◆ The students that the adults did see, catch, and punish tended to be big boys, often special education students, who were fighting back against slicker, quieter, highly verbal bullies. Typically the adults in schools were not aware of the bullying being done by popular students who often had been tormenting more vulnerable students, for weeks, months, or even years.

We believe that choosing diverse students to serve as leaders, empowering them to research the problems inside their schools, and including them in developing priorities for

school improvement, are essential steps in understanding and confronting the real issues related to bullying and harassment. Adults need to change their thinking about who are the bullies in schools. Teachers, instructional assistants, and school administrators all need to be aware that popular students engage in bullying that significantly harms other students. Finally, bullies themselves need help. Students who turn to bullying as a way to fight back against their own victimization need to learn other ways for addressing these situations. Those popular bullies who build themselves up by abusing their power and victimizing those who are more vulnerable need to be "called out" on their behavior.

When it is seen clearly, bullying is about abuse of power and contempt for other people. Bullying in schools is similar to spouse abuse, hate crimes against minorities, or marginalization of the poor. When we begin to see bullying for what is and understand what motivates bullies, we can be more effective in helping schools to become safer, more respectful learning communities.

For more information about Main Street Academix and bullying prevention please visit our website at [www.msanh.com](http://www.msanh.com).

its federal protection and advocacy authority to conduct its own investigation and make recommendations for correction. The authority granted to the agency includes access to information, documents, and reports that would otherwise be confidential. This access helps ensure that the DRC is able to conduct a thorough and independent investigation.

When conducting its own investigation, an advocate from DRC begins by talking with the individual who was allegedly abused, or with the person who reported the incident. Typically, the DRC makes an on-site visit to the facility where the abuse or neglect occurred, reviews documents, and interviews facility staff as well as individuals receiving services. In some instances, the DRC may engage experts to help assess the situation, review documents and other information, and make recommendations for a resolution.

An expert can be especially helpful in situations involving complex professional treatment decisions or in determining whether program policies and/or procedures are sufficient to provide protection against abuse or neglect. Once the investigation is concluded, the DRC issues a report that summarizes the investigation, determines whether or not abuse or neglect occurred, and makes recommendations for relief. Examples of recommendations may include specific training for staff, termination of employees who were found to have been abusive or neglectful, or changes in program policy or procedures to ensure adequate protection against further abuse or neglect.

In some cases the DRC will file a complaint requesting that a state or federal agency conduct an investigation. Fre-

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# TIED UP AND DRUGGED

Julia Freeman-Woolpert, Disabilities Rights Center

The use of coercion or coerced treatment in mental health service settings is still common in New Hampshire and across the nation. Coercion can include restraints such as the use of handcuffs, strapping a person to a bed (four-point restraint), and placing an individual in a physical hold, including dangerous face down restraint. In addition to physical restraints, patients in mental health settings may also be placed in seclusion or forcibly medicated.

Restraints are used to contain a person who is judged to be out of control and unsafe. Coercive treatment can have significant risks, especially for someone who is suffering from mental illness and/or trauma. The use of force, whether physical, mechanical, or pharmacological, can be not only frightening and humiliating; it also can be dangerous, resulting in further trauma and damage to an individual's mental health.



By law, people in psychiatric settings have the right to be free of coercion, except under very limited circumstances. In addition, best practices in mental health services call for treatment that is violence free and non-coercive. The National Association of State Mental Health Program Directors (NASMHPD) has issued a position statement that restraint and seclusion are last-resort measures and not treatment interventions. (For more information visit their website at [www.nasmhpd.org](http://www.nasmhpd.org).) New Hampshire law also requires that these measures be used only as a last resort.

Before staff employs restraints, other less restrictive alternatives should be used. Alternatives to restraints include de-escalation techniques and the use of time outs and "comfort rooms" that are specifically designed to reduce

stress by providing an environment that includes gentle music, massage chairs, warm blankets, and peaceful scenes on the walls. New Hampshire Hospital has two such rooms for their adult patients. New Hampshire Hospital also has provided staff training, received technical assistance, and established an ongoing committee to reduce the use of restraint and seclusion. (The Disabilities Rights Center has not yet obtained information on how successful the committee has been.)

Despite the option of these best practices and existing legal safeguards, mental health providers sometimes use more coercion and control than is necessary.

John\*, a mental health patient in his late 50's, reported that numerous times during hospitalizations he has been tied to a bed in four-point restraint and involuntarily sedated. John described this treatment as the worst thing that has ever happened to him. It was not only degrading, but also extremely painful. As a result of his diabetes, John has sore and swollen legs; being tied down restricted his circulation and exacerbated the pain in his legs.

John said he was put into four-point restraint for being too loud and refusing to follow orders. He felt that staff could have defused the situation in other ways. He said he would be able to calm down without mechanical restraints, "if they would just back off and stop giving orders. A lot of times they're pressing your buttons."

John noted, "They're supposed to take care of us, not just control us." He doubts that mental health workers appreciate just how stressful and damaging it is for a person to be tied down and involuntarily medicated. He believes that mental health workers would be more empathetic if, as part of their training, they were in restraint for an hour.

Janice has had similar experiences. Now in her mid- 40's Janice has been in and out of psychiatric hospitals for the last 30 years. During many of the hospitalizations, Janice was put in four-point restraint. While her dissociative disorder makes it difficult for her to remember why she was tied up, she vividly recalls the trauma of being restrained. In reporting on her experience in a psychiatric hospital in another state she said, "If you didn't do what they said, they'd tie you to the bed. They used straight-jackets too. The staff said that's the way to make you

feel secure." The use of restraints had the exact opposite effect. Janice said that during one of her hospitalizations she was in a psychotic state and believed that aliens were attacking. She was convinced if she were tied to the bed, the aliens would come and cut off her arms. In spite of being terrified and pleading not to be tied up, the staff put her into four-point restraint. Janice believes that staff used physical restraints as a punishment when they were angry with her.

Involuntary medication is another form of coerced treatment that can result in personal disempowerment and cause patients to distrust their health care providers.

Helen was admitted to a Manchester hospital two years ago with symptoms of a bipolar disorder. The hospital prescribed lithium; the medication caused severe side effects including extreme thirst and incontinence. When she informed the doctors about these side effects, they dismissed her complaints and told her that if she discontinued taking lithium they would have her committed to New Hampshire Hospital. She continued taking lithium; her incontinence became so bad that she was unable to leave her house and worse, she felt emotionally flat and disconnected from the people she loved.

When Helen reported these symptoms to her personal physician he attributed them to her mental illness rather than to the medication, and threatened to have her committed if she stopped taking lithium. Finally, her husband went online and discovered that patients taking lithium who experience incontinence should seek immediate medical attention. Armed with this information, Helen finally was able to get her doctor to prescribe a different medication that has worked well for her. In addition to the personal misery  
(Continued on page 17)

## **WHAT TO DO WHEN YOU SUSPECT ADULT ABUSE OR NEGLECT**

The Adult Protection Law requires any person who has a reason to believe that an elderly or incapacitated adult has been subjected to abuse, neglect, exploitation, or self-neglect to make a report immediately to Bureau of Elderly & Adult Services (BEAS).

To report abuse or neglect, contact BEAS 8:00-4:30 Monday-Friday at: 1-800-949-0470 or 603-271-7014

For abuse or neglect that occurs in Nursing or Assisted Living Facilities, Contact the Long Term Care Ombudsman: 1-800-442-5640 or 603-271-4375.

In emergencies or after hours, weekends or holidays call 911 or contact the local police.

The BEAS website has more information on how to make a report: [www.dhhs.nh.gov/DHHS/BEAS/reporting-abuse.htm](http://www.dhhs.nh.gov/DHHS/BEAS/reporting-abuse.htm)

## **WHAT TO DO WHEN YOU SUSPECT CHILD ABUSE OR NEGLECT**

To report child abuse or neglect, call: 1-800-894-5533 or 603-271-6556, 8:00 AM - 4:30 PM

Monday-Friday. Call 911 or local law enforcement for emergency situations or after hours, weekends, or holidays. More information is available at [www.dhhs.state.nh.us/DHHS/BCP/default.htm](http://www.dhhs.state.nh.us/DHHS/BCP/default.htm)

## **WHAT ARE YOUR LEGAL RIGHTS IF YOU HAVE BEEN ABUSED OR NEGLECTED**

The Disabilities Rights Center provides protection and advocacy for people with disabilities who have been abused or neglected, or are at risk of being abused or neglected, by state and local services and programs such as schools, hospitals, mental health centers, and area agencies. If you would like to speak with an advocate, call the Disabilities Rights Center at 1-800-834-1721 or email them at [advocacy@drcnh.org](mailto:advocacy@drcnh.org).

## ***For More Information on Restraint and Seclusion...***

### **Human Services Restraint: Replace, Reduce or Relinquish?**

By David Ferleger: A history of restraint and seclusion, sources on risks and efficacy issues, research on reduction efforts, legal analysis and predictions. [ferleger.com/pdfs/Ferleger\\_Seclusion\\_article\\_PDF.pdf](http://ferleger.com/pdfs/Ferleger_Seclusion_article_PDF.pdf)

### **Roadmap to Seclusion and Restraint-Free Mental Health Services Training Manual**

The Center for Mental Health Services has developed a new training manual on seclusion and restraint free mental health services. It is recovery-based and developed by consumers. [www.mentalhealth.samhsa.gov/publications/allpubs/sma06-4055/](http://www.mentalhealth.samhsa.gov/publications/allpubs/sma06-4055/)

### **Restraint and seclusion while at the hospital: What are my rights?**

See this and other DRC informational brochures at: [www.drcnh.org/brochures.htm](http://www.drcnh.org/brochures.htm)



# PROTECTIVE LEGISLATION

Richard Cohen Esq. , Executive Director, Disabilities Rights Center

Over the past two years the New Hampshire legislature has enacted three laws aimed at preventing abuse and neglect. In 2006 the legislature created a Central Registry of persons who have abused or neglected adults with disabilities; there currently are legislative proposals to expand the Registry and improve access to Registry information. In 2007 the legislature established a permanent committee to review deaths and serious injuries, particularly unanticipated or suspicious deaths, of incapacitated adults 18 years of age and older. During the same session, an amendment to the Developmental Disabilities Waiting List Bill (SB138) created a study committee to look at workforce issues for individuals with developmental disabilities and acquired brain disorders and to develop a plan to improve quality assurance for developmental services. The SB138 Committee has released recommendations that include proposals for legislative action and regulatory changes.

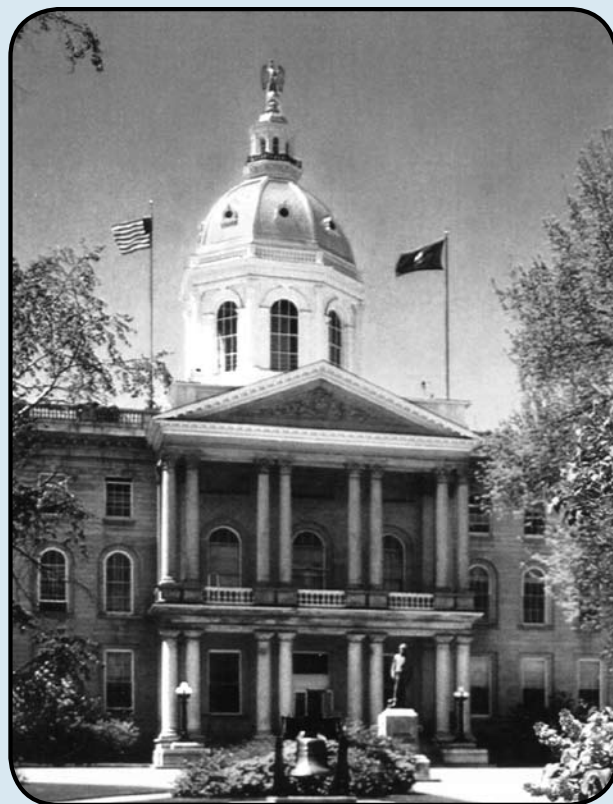
The Disabilities Rights Center (DRC) has a strong history of advocating for protective legislation and will continue to fight for laws and policies that safeguard New Hampshire's most vulnerable citizens. The DRC is represented on the Central Registry workgroup, the Fatality Review Committee, and the SB138 Committee that is developing recommendations to address workforce and quality assurance issues in the state's developmental services system.

## **INCAPACITATED ADULT FATALITY REVIEW COMMITTEE (IAFRC) [NH RSA 21-M:16]**

IAFRC is now a permanent committee under the authority of the New Hampshire Attorney General's Office; approximately 20 interested organizations, including the DRC and the Council on Developmental Disabilities, are represented on the committee. The IAFRC is responsible for conducting a review of all suspicious, unusual, alleged abuse or neglect related deaths and serious injuries of incapacitated adults. Incapacitated adults are persons 18 year of age or older who were (or are) being served by Department of Health and Human Services (DHHS) institutional, community based, or protective service providers. This includes people who receive services from the Area Agency system, community mental health centers, the New Hampshire State Hospital, and nursing home, assisted living, and personal care attendant systems. IAFRC also is charged with evaluating demographic and other data to ascertain whether there are trends or patterns concerning deaths and/or serious injuries. All reviews and evaluations are for the purpose of developing, publishing, and following up on recommendations to prevent deaths and sentinel events in the future. This law can be found at [www.gencourt.state.nh.us/rsa/html/I/21-M/21-M-16.htm](http://www.gencourt.state.nh.us/rsa/html/I/21-M/21-M-16.htm).

## **CENTRAL REGISTRY [NH RSA 161-F:49]**

In 2007 Governor Lynch signed into law legislation establishing a Central Registry of persons found to have abused or neglected individuals with disabilities 18 or over. Modeled after the Division of Children Youth and Family (DCYF) Child Abuse Registry, currently there are approximately 40 individuals on the Adult Registry. The state's Department of Health and Human Services is responsible for both registries; the Child Abuse Registry is within the DCYF and the Bureau of Elderly and Adult Services maintains the Adult Registry.





As required by the law, before a state or private provider of services to adults with disabilities hires someone who may have direct client contact, they must check the Adult Registry. If the applicant for employment is on the Registry, the person cannot be hired unless the provider applies for and receives a waiver from DHHS. The legislature recognized the possibility that individuals who were listed in the registry for one service system could still apply for work in another system without being detected. The legislative Committee considering this bill recommended that before hiring direct support staff, adult service providers be required to check the DCYF Child Abuse Registry and those running background checks against the DCYF registry also should have the authority to access the Adult Registry. This law can be found at: [www.gencourt.state.nh.us/rsa/html/XII/161-F/161-F-49.htm](http://www.gencourt.state.nh.us/rsa/html/XII/161-F/161-F-49.htm)

(additional information about the Adult Registry can be found on page 14 of this issue.)

In the 2009 legislative session, Representative Joan Schulze will be introducing legislation (HB 251) to put these recommendations into law. Passage of HB 251 will add another important layer of protection against neglect and physical, emotional, and sexual abuse of both vulnerable children and adults.

## **RECOMMENDATIONS OF SB 138 QUALITY ASSURANCE AND WORKFORCE COMMITTEE<sup>1</sup>**

During the 2007 legislative session, in addition to amending the state developmental service law (RSA 171-A) to phase out the wait list over 3 years, the Legislature established a committee to study and make recommendations to enhance the system's professional and direct support workforce and to create mechanisms that will assure quality services. Recommendations from the study committee that are particularly relevant to abuse and neglect investigation and prevention include:

- ◆ Improved surveying techniques of individuals with disabilities to determine if they may have been abused and if they are aware of their rights.
- ◆ Creation of the Quality Council comprised of stakeholders who are charged with recommending, promoting, and overseeing improved corrective and prevention mechanisms and quality assurance measures.
- ◆ Transferring abuse and neglect investigation functions from Area Agencies to the DHHS's Bureau of Developmental Services to avoid potential conflicts of interest or the appearance of conflicts.
- ◆ Reducing turnover of workforce through increased wages, benefits, training, and improved support and supervision.

The DHHS Bureau of Developmental Services has requested increased funding to implement the workforce recommendations. In the 2009 legislative session Representative Suzanne Butcher will be introducing a bill to establish the Quality Council.

We believe that it is critical for policy makers to hear directly from the individuals and families who are most affected by proposed legislation or regulatory changes. To receive email alerts about upcoming legislation or rules changes please email Julia Freeman-Woolpert at [juliaf@drcnh.org](mailto:juliaf@drcnh.org).

<sup>1</sup>Links to Reports at [http://www.dhhs.state.nh.us/NR/rdonlyres/efw6ir6f6kjg27crna2jkjblb6qmedidiey7hr4scy37kq2qf6bfhlwberemxm2ntjqpahq636nhiuurb453y62aa/bds\\_workforce.pdf](http://www.dhhs.state.nh.us/NR/rdonlyres/efw6ir6f6kjg27crna2jkjblb6qmedidiey7hr4scy37kq2qf6bfhlwberemxm2ntjqpahq636nhiuurb453y62aa/bds_workforce.pdf) AND [http://www.dhhs.state.nh.us/NR/rdonlyres/ei77tejquogillm2ottyzywcfydv6gjh3yukkasb7bjohrqo3w3pnlhtsltwdu7h6r3tr5bkms4rmgntukb2tmkb/bds\\_sb138report.pdf](http://www.dhhs.state.nh.us/NR/rdonlyres/ei77tejquogillm2ottyzywcfydv6gjh3yukkasb7bjohrqo3w3pnlhtsltwdu7h6r3tr5bkms4rmgntukb2tmkb/bds_sb138report.pdf)

# Bureau of Elderly and Adult Services State Registry

To ensure that our state's vulnerable adult residents receive quality care, the New Hampshire legislature enacted RSA 161-F:49. Under the law which went into effect July 1, 2007 all employers of programs that are licensed, certified, or funded by the New Hampshire Department of Health and Human Services (DHHS) to provide services to individuals are required to submit the names of prospective employees who may have contact with individuals receiving services. Any individual hiring a caregiver directly, or through an authorized representative or fiscal intermediary, also may submit the prospective employee's name for Registry review. Submitted names are reviewed against the Registry of founded reports of abuse, neglect, and exploitation of incapacitated adults. (As defined in statute, an incapacitated adult is anyone whose physical, mental, or emotional stability is such that he or she is unable to manage personal, home, or financial affairs in his or her best interest, or is unable to act or unable to delegate responsibility to a responsible caretaker or caregiver.) DHHS informs the employer whether a prospective employee is or is not on the State Registry.

It is important to note that the State Registry does not include information about caregivers that occurred prior to the enactment of the law. Only caregivers in settings that are licensed, certified or funded by DHHS and private pay caregivers who have been found to have abused (including physical, sexual, and emotional abuse), neglected, or exploited an incapacitated adult on or after July 1, 2007 will have his or her name entered in the Registry.

The State Registry officially began operation within the New Hampshire Bureau of Elderly and Adult Service (BEAS) in September 2007. Since that time, through October 31, 2008, the Registry has received and processed approximately 24,600 release forms. While the statute provides for five days to process forms, Registry staff typically turns around requests within 24-48 hours, excluding weekends and holidays.

*(Continued from page 9)*

quently there are state and/or federal statutes concerning abuse and neglect investigations that apply to organizations that receive public funding. For instance, in a case involving abuse of a student by a teacher, DRC may file a complaint with the New Hampshire Department of Education. The appropriate state or federal agency will evaluate the complaint and determine if an investigation is warranted. The agency conducting the investigation will issue a decision on whether abuse or neglect occurred and determine appropriate action and relief. When the DRC files a complaint with an agency on behalf of its client, it remains available to assist the agency during its investigation and to discuss the investigation with the client. After the investigation has been completed and a report has been issued, the DRC reviews the report with the client and assesses whether the action

taken or relief granted is sufficient and whether further action should be considered. If the client and DRC find the results of an agency's investigation unsatisfactory, the matter can be appealed administratively or to a court of law.

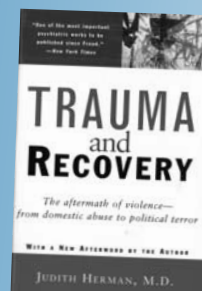
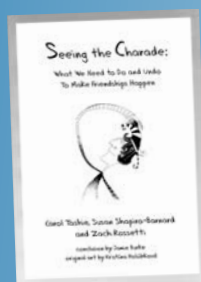
In some circumstances, the appropriate response to an incident of abuse or neglect is to report the incident to criminal authorities for prosecution or to file a civil law suit. DRC can provide advice and assistance for individuals seeking to pursue criminal or civil remedies.

Guaranteeing the rights of people with disabilities, including the right to live a life free from harm, is a top priority of the Disabilities Rights Center. If you have been the victim of abuse or neglect, or are worried that someone you know is being abused or neglected, please contact the DRC toll free at 1-800-834-1721.

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A common question for BEAS Registry staff is, "What names need to be submitted to the Registry?" RSA 161-F:49 applies to individuals who are caregivers, whether paid or volunteering, under the auspices of a program that is licensed, certified, or funded by DHHS. The law does not apply to family members unless they are being paid to provide services to their relative. It also does not apply to employees or volunteers, such as kitchen staff, maintenance workers, or office staff, who do not provide direct care to clients. However, as a safeguard, BEAS does encourage employers to submit the names of anyone who will have regular client contact.

Procedurally, the statute provides for a caregiver's right to appeal a finding made against him or her. An individual has 10 business days from receipt of written notice advising them of the finding to request an appeal. If no appeal is requested then the individual's name is entered in the Registry. If an appeal is requested the individual's name is not entered until the appeal process has been completed and the finding is upheld. An individual's name remains on the State Registry for a period of seven years. The law also provides for expungement (removal of the individual's name from the Registry) by petition to the Merrimack County Probate Court one year from the date of entry in the Registry; if the petition is denied, expungement may be sought every three years thereafter.

In operating the State Registry, BEAS has identified areas of the law that require clarification or correction and has initiated the process to address these in the current legislative session. In addition, administrative rules have been drafted regarding the administration of the Registry, the process for requesting a waiver, and for appealing a finding of abuse, neglect, or exploitation.

Anyone with questions regarding the State Registry may call Michele Beasley, Supervisor, at 271-8154 or by email at [mbeasley@dhhs.state.nh.us](mailto:mbeasley@dhhs.state.nh.us).

## THE ROLE OF THE MEDICAID FRAUD UNIT

Jeffrey S. Cahill, Senior Assistant Attorney General, NH Department of Justice

The Medicaid Fraud Unit ("Unit") of the New Hampshire Attorney General's Office was established in 1984. The Unit has statewide jurisdiction to investigate and prosecute fraudulent practices in the provision of medical assistance under the New Hampshire Medicaid program. The Unit also has responsibility to investigate and prosecute cases involving the victimization and financial exploitation of vulnerable adults residing in New Hampshire's nursing homes and assisted living facilities.

Comprised of an eight-person team that includes two attorneys, three financial analysts, two investigators, and one legal assistant, the Unit has exposed fraudulent and abusive billing practices by health care providers as well as fraudulent activity relating to the State's administration of Medicaid. Healthcare providers include, but are not limited to, hospitals, nursing homes, doctors, dentists, pharmacies, ambulance companies, and anyone else who

is paid by Medicaid for providing healthcare services to Medicaid recipients. Examples of provider fraud include:

**Billing for Services Not Rendered:** A provider bills Medicaid for a procedure or service that was not actually provided.

**Double Billing:** A provider bills Medicaid twice for the same procedure or service.

**Billing for Unnecessary Services:** A provider misrepresents the diagnosis and symptoms on patient records and billing invoices in order to obtain payment for unnecessary services.

**Drug Substitution:** A pharmacist fills a recipient's prescription with a generic drug, but bills Medicaid for a higher cost brand name drug.

*(Continued on page 18)*



## THE OFFICE OF LONG TERM CARE OMBUDSMAN: Safeguarding the Rights of Residents in Long Term Care Facilities

Melissa Mandrell, Program Coordinator, UNH Institute on Disability

The Office of the Long Term Care Ombudsman works to safeguard the rights of people living in long term care facilities, to resolve complaints or problems experienced by long-term care residents, and to provide consultation and education to residents, residents' families, and to long-term care staff members on topics related to long-term care.

Individuals who reside in nursing homes have as much right to control their lives as anyone else. A resident can lose the right to make decisions about his or her life only when the Probate Court rules on a petition for guardianship and determines that the person will have a guardian who is given specific authorities to make some decisions or when a person has an advance directive developed after January 1, 2007 that includes a clause in which the resident voluntarily gives up the right to control his or her own healthcare decisions.

The Office of the Long-Term Care Ombudsman (OLTCO) recommends that nursing home residents not grant others the authority to make healthcare decisions for them. The OLTCO makes this recommendation based upon the large number of residents who have complained that they regret giving up this power. Residents in long-term care facilities who already have an advance directive relinquishing decision-making authority on healthcare matters can develop a new power of attorney document in

which they elect not to relinquish decision-making authority in this area. The most recent advance directive takes precedence over any previous advance directives.

Many who have power of attorney do not realize that they work for the principal (nursing home resident) and their role is to communicate the individual's wishes when that person is unable to do so. Several State laws, including RSA 137-J:5 and RSA 151:21IV, require that the person be afforded an opportunity to voice his or her own positions in healthcare matters, rather than only deferring to the power of attorney in these decisions.

The Office of the Long Term Care Ombudsman is charged with investigating and addressing complaints from and about people who live in nursing homes, residential care facilities, assisted living, adult family care homes, and other facilities that provide residential long term care. In addition to complaint investigation, the OLTCO staff provides assistance with problem solving and support residents in resolving issues. Many concerns can be dealt with informally through discussion and education. For more serious issues, the Ombudsman can seek administrative, legal, and other remedies. Anyone with questions or concerns about themselves or people they care for can contact the office toll free in New Hampshire at 1-800-442-5640, by email at [OLTCO@dhhs.state.nh.us](mailto:OLTCO@dhhs.state.nh.us), or on the website at [www.dhhs.state.nh.us/dhhs/oltco/default.htm](http://www.dhhs.state.nh.us/dhhs/oltco/default.htm).

*The New Hampshire Legislature revised the state law regarding written directives for medical decision making. The new law now includes the following provision: The principal's attending physician or ARNP (Advanced Registered Nurse Practitioner) shall make reasonable efforts to inform the principal of any proposed treatment, or of any proposal to withdraw or withhold treatment. Notwithstanding that an advance directive is in effect and irrespective of the principal's lack of capacity to make health care decisions at the time, treatment may not be given to or withheld from the principal over the principal's objection unless the principal's advance directive includes the following statement initialed by the principal, "Even if I am incapacitated and I object to treatment, treatment may be given to me against my objection." (RSA 137-J:5 IV.)*

*Under New Hampshire law, RSA 151:21 IV, the patient shall be fully informed by a health care provider of his or her medical condition, health care needs, and diagnostic test results, including the manner by which such results will be provided and the expected time interval between testing and receiving results, unless medically inadvisable and so documented in the medical record, and shall be given the opportunity to participate in the planning of his or*





# Parents with Disabilities in the Child Protection System

Amy Messer, Legal Director, Disabilities Rights Center

Parents with mental health, cognitive, or other disabilities sometimes find themselves fighting to maintain custody of their children or to prevent their parental rights from being terminated. At times, the responses of child protective services and courts are based on generalized assumptions about a parent's disability rather than on the facts about the specific instance(s) of abuse and neglect as required by law. In some cases, protective services and the court have based their findings on evidence of the effects of a disability that has since been corrected. While the child protection system is required to offer services to help reunify families or to maintain family unity, these services are often not designed to meet the specialized needs of a parent with a disability.

To remedy this situation, parents with disabilities may benefit from protections under the federal Amer-

icans with Disabilities Act (ADA). The ADA can require state entities such as the Division for Children, Youth and Families (DCYF) to provide reasonable modifications to their programs and services that that would more appropriately serve the individual needs of the parent with a disability. For example, an individual with a developmental disability who is required to attend parenting classes may request that classes be individually tailored to meet her unique needs. For example, classes could be modified to include hands-on instruction or one-to-one training. DCYF may need to make modifications to programs to ensure that an individual who is deaf or hard of hearing will be able to communicate effectively. A parent with mental illness can ask DCYF for help in finding and obtaining counseling. Public entities are not required to make accommodations that would fundamentally alter the nature of the

program or service or result in undue financial and administrative burdens. Individuals with disabilities, however, have a legal right to receive a service that provides an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others.

The right to care for and raise one's own children is among the most fundamental rights that parents have. Parents with disabilities in the child protection system and their attorneys and advocates should ensure that the services provided or needed are tailored to the needs of the individual. Requests for modifications in training or other family preservation services due to a disability should be raised as early as possible. If you have questions regarding your rights to request such modified services, please contact the Disabilities Rights Center toll free at 1-800-834-1721.

*her total care and medical treatment, to refuse treatment, and to be involved in experimental research upon the patient's written consent only. For the purposes of this paragraph health care provider means any person, corporation, facility, or institution either licensed by this state or otherwise lawfully providing health care services, including, but not limited to, a physician, hospital or other health care facility, dentist, nurse, optometrist, podiatrist, physical therapist, or psychologist, and any officer, employee, or agent of such provider acting in the course and scope of employment or agency related to or supportive of health care services.*

*(Continued from page 11)*

and dangerous side effects, Helen's experience, caused her to lose faith in her doctors. Helen thinks lithium was prescribed because the doctors could check her blood levels to see if she was medication "compliant," something they can't do with her current medication.

If you have concerns about coercive mental health treatment or want legal advice or information about your rights please call the Disabilities Rights Center at 1-800-834-1721. More information about your rights in the mental health system can be found on our website at: [www.drcnh.org/brochures.htm#mh](http://www.drcnh.org/brochures.htm#mh)

*\*To protect confidentiality all names have been changed.*

*(Continued from page 15)*

**Kickbacks:** A provider offers or pays a kickback to induce someone to refer Medicaid recipients to that provider as patients or clients. Examples of kickbacks include cash, vacations, and gifts.

**Supplemental Charges:** A provider charges a Medicaid recipient for a service which is covered by Medicaid and should be billed to Medicaid, and then charges the recipient the difference between the provider's usual fee and what Medicaid pays.

**Inflating the Usual and Customary Charges:** A provider charges Medicaid more than their usual and customary charge for the same product or service billed to other insurers and the public. A provider might inflate the cost of the procedure, service or goods provided.

In the last fiscal year (July 1, 2007 through June 30, 2008) the Unit recovered and returned approximately \$2.3 million dollars to the New Hampshire Medicaid program. Cases involved in these recoveries include:

- ◆ A national drug manufacturer who was engaged in marketing violations.
- ◆ An ambulance company that submitted claims for services it did not provide.
- ◆ An occupational therapy service which submitted claims for which it had no supporting documentation.
- ◆ A national pharmacy that engaged in drug substitution.

In its capacity to protect residents of nursing homes and assisted living facilities, the Unit investigates incidents of physical abuse, sexual assault, emotional abuse, neglect, and financial exploitation. Currently in New Hampshire there are 86 licensed nursing facilities and an additional 140 assisted living facilities. Collectively, these residential care settings represent home for approximately 10,500 New Hampshire citizens. Of the more than 7,000 individuals residing in the state's nursing facilities, approximately 66% are covered under Medicaid.

The Unit concentrates its investigation and prosecution efforts on those who abuse or financially exploit the vulnerable adults living in these settings. Financial exploi-

tation is the illegal or improper use of an individual's trust account, personal funds, or assets. Cases involving financial exploitation could involve a facility employee or an outside third-party fiduciary who is responsible for managing the victim's finances. Residents are most often financially exploited by individuals known to them such as family members, neighbors, or caregivers.

Between July 1, 2007 and June 30, 2008 the Unit's investigative and prosecutorial efforts led to the issuance of fourteen criminal charges against ten individuals. Those charges included:

- ◆ Illegal possession of narcotics against a licensed nursing assistant and registered nurse who worked in a nursing facility.
- ◆ Theft involving the daughter of a nursing home resident who illegally diverted the proceeds from the sale of her mother's home.
- ◆ A Medicaid fraud involving a daughter who falsified the Medicaid nursing home application for her parents.
- ◆ Theft by a son, who acting as his mother's power of attorney, diverted her monthly income instead of paying her nursing home bill.
- ◆ Fraudulent billing by a Medicaid healthcare provider.

To date five of the charged defendants have been convicted. The cases involving financial exploitation led to restitution to the victims in the amount of approximately \$285,000.00.

The Unit accomplishes its mission by working closely with the Division of Health and Human Services, and in particular the Bureau of Elderly and Adult Services and the Office of the Long Term Care Ombudsman, as well as with law enforcement agencies throughout the state. The Unit also develops and provides training to those involved in the care and administration of the New Hampshire Medicaid program.

To report incidents of Medicaid fraud or victimization of adults residing in nursing homes or assisted living facilities please contact the Medicaid Fraud Unit at 603-271-1246.



## STAYING ON TRACK WITH BILL PAYER SERVICES

Cathy Creapaux, Program Specialist, Bureau of Elderly and Adult Services, and previous Statewide Coordinator of the AARP Foundation Money Management – Bill Payer Program

We all know what it's like to have to keep track of mail and bills. While we may occasionally misplace a bill or – perish the thought – forget to pay it, most of the time we are able to stay on top of things. However for some seniors and adults with disabilities, managing personal finances can be overwhelming. While an individual may have a sense of what is in his or her bank account and how it should be spent, loss of vision, memory problems, or health issues make organizing paperwork and keeping track of mail and bills increasingly difficult.

Some adults who find themselves in this situation try to enlist bank tellers, postal workers, or others to help them. This places a burden on already busy workers who, in spite of their best intentions, may not have the time or ability to provide needed assistance.

The AARP Money Management – Bill Payer Program was developed to address this situation. Based on a national model, this program began in New Hampshire over a year ago through a partnership between the NH Department of Health and Human Services (DHHS), Bureau of Elderly and Adult Services and the AARP Foundation. First piloted through the DHHS District Offices in Berlin and Nashua, the program has recently become available in the Greater Manchester and Keene areas, Sullivan County, Grafton County, and Carroll County with expansion to other areas of the state being considered.

How does the Bill Payer Program work? Screened and trained volunteers provide friendly and confidential assis-

tance to those who need help in organizing bills, writing checks, setting up a monthly budget, and balancing their checkbooks. To ensure quality services, program volunteers are monitored each quarter by a third party.

In order to receive services through the Bill Payer Program a person must want the service, meet certain income and asset guidelines, and be capable of making informed decisions. The program is finding that with a little help from volunteers, individuals are better able to manage their finances and remain independent.

This program also can help incapacitated adults (age 18 and older) who may be at risk, or have already been victims of, self-neglect or exploitation. These include individuals who may have difficulty organizing bills and writing checks, budgeting their money, or balancing a checkbook. When an individual can no longer manage their personal finances, utilities may be shut off, heating oil may not be delivered, rent may go unpaid, and eviction may loom on the horizon. These are situations that can lead to having an Adult Protective Report filed with the Bureau of Elderly and Adult Services.

According to Lynn Koontz, Adult Protective Services Administrator for the DHHS Bureau of Elderly and Adult Services, by assisting individuals experiencing money management challenges, the Bill Payer Program could help to prevent a protective report from being necessary, if the need is identified and addressed with Bill Payer services before a crisis occurs.



To learn more about this program or for information on volunteering, please visit the AARP website at [www.aarpmmp.org](http://www.aarpmmp.org) or contact the following individuals:

Cheshire County: Cheryl Meyers at 357-3510 Ext. 714 or toll free at 1-800-624-9700, Ext. 714

Coos County: Sue Godin at 752-7800 Ext. 339 or toll free at 1-800-972-6111, Ext. 339

Southern Hillsborough County: Denise Pliska at 883-7726 Ext. 524 or toll free at 1-800-852-0632, Ext. 524

Greater Manchester Area of Hillsborough County: Jean Crouch at Seniors Count, at 603-644-2240

Grafton and Sullivan Counties: Teresa Volta at RSVP & The Volunteer Center, toll free at 1-877-711-7787

Carroll County: Joan Kenney at the Carroll County RSVP, at 603-356-9331

*Kim Hadank-Swinson is the new Statewide Coordinator of the AARP Foundation Money Management – Bill-Payer Program and a Program Planner at the DHHS Bureau of Elderly and Adult Services. She can be reached toll-free at 1-800-351-1888.*



INSTITUTE ON DISABILITY / UCED  
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# IOD TRAINING AND EVENTS

## APEX Training

Participants will learn to create and nurture a problem-solving team of professionals responsible for developing evidence-based strategies to improve the behavior and academic achievement of middle and high school students for whom school-wide approaches have been insufficient.

**Date & Location:** Tuesday, February 10, 2009:  
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**Time:** 9am 3pm  
**Cost:** \$50 (Free for APEX schools)  
**Presenter:** Cathy Apfel, M.Ed.

## Autism Mini-Sessions

Informative and interactive topical discussions on ASD designed to provide practical teaching ideas to complement teaching and parenting strategies.

**Date & Topic:** Thursday, February 12, 2009  
Creating Visual Supports for Learning  
the General Education Curriculum in  
the General Education Classroom  
**Presenter:** Cheryl Jorgensen, Ph.D.  
**Date & Topic:** Monday, March 16, 2009  
Rethinking the Role of Context  
**Presenter:** Cathy Apfel, M.Ed.  
**Date & Topic:** Tuesday, April 7, 2009  
Literacy and Students with ASD  
**Presenter:** Leigh Rohde, M.Ed.  
**Time:** 4pm 6pm  
**Location:** UNH Institute on Disability,  
Durham, NH  
**Cost:** \$30 each

## Foundations of Early Childhood Education: Emergent Literacy and Positive Behavior Support for Young Children

This workshop series for early childhood educators is designed to increase program quality in Head Start, preschool, child care, and family day care settings. It will focus on building positive relationships with children to promote cognitive and social growth. Early childhood educators from SAU 9 (Conway, Bartlett, Jackson) and surrounding areas are encouraged to attend.

**Session:** February 27, 2009 – High Quality  
Early Childhood Education: Building  
Relationships for Social and Academic  
Learning

**Session:** April 3, 2009 – Targeted Instruction in  
Early Childhood Education: Providing  
Additional Support for Children  
**Session:** May 1, 2009 – Intensive Instruction in  
Early Childhood Education: Providing  
Individualized Support for Children  
**Time:** 9am–3pm  
**Location:** Children Unlimited, Inc.,  
Conway, NH  
**Registration Fee:** Free  
**Presenters:** Leigh Rohde, M.Ed., and Tina  
Pomerleau, M.Ed.

\* Participants may sign up to attend Session 1 only, Sessions 1 and 2,  
or all 3 Sessions.

## The Paraeducator's Toolbox

Practical Strategies to Support Academic Achievement for  
Students with Learning and Behavioral Challenges  
These workshops will provide participants with effective  
and proactive approaches that promote successful academic  
outcomes, social competency, and management of behavioral  
challenges. Each workshop is specifically designed to  
address the complex social, emotional, and learning needs of  
students.

**Dates:** Preschool & Elementary School  
Wednesday, March 4, 2009  
Middle School & High School  
Monday, March 9, 2009  
**Time:** 9am 3pm  
**Location:** Common Man, Concord, NH  
**Cost:** \$95  
**Presenter:** Cathy Apfel, M.Ed.

## Person-Centered Planning for Older Adults

Offers an introduction to person-centered planning,  
including and overview of a person-centered system of care,  
information on how to facilitate planning meetings, and tools  
to use in the planning process.

**Date & Location:** Friday, March 20, 2009:  
Holiday Inn, Concord, NH  
**Date & Location:** Thursday, April 2, 2009:  
Granite State College, Conway, NH  
**Time:** 9am 4pm  
**Cost:** \$25  
**Presenters:** Susan Fox, M.Ed., MA, and  
Patty Cotton, M.Ed.



## IntelliTools Classroom Suite 4 Training

The new IntelliTools Classroom Suite 4 is incredibly quick and easy to use. New, customized templates allow you to create learning and assessment activities in minutes for reading, writing, and math. The program provides students with explicit instruction, constructive practice, and embedded assessments, allowing teachers to gauge progress and individualize instruction for their students.

**Dates:** Level I: **Monday, March 23, 2009**  
Level II: **Tuesday, March 24, 2009**

**Time:** 9am 3pm

**Location:** Canterbury Woods Country Club,  
Canterbury, NH

**Cost:** \$75 each

**Presenters:** Dan Herlihy

## EMPLOYMENT LINKS

### Practical Strategies for Supporting the Career Goals of Individuals with Disabilities

This 4-part training series Provides employment service personnel and others with critical "how-to" information, resources, and tools to achieve high quality employment outcomes for individuals with disabilities.

**Session:** **March 26, 2009** – Labor Laws and Work Experiences

**Presenter:** Kim Runion, Director, Tech Prep and School-to-Work, NH Dept. of Education

**Session:** **April 2, 2009** – Low Cost Worksite Accommodations in Minutes

**Presenter:** Dr. Therese Willkomm, Director, ATinNH

**Session:** **May 7, 2009** – Self-Employment and Other Creative Employment Alternatives

**Presenters:** Laurie Vachon, Lakes Region Community Services; Ryan Toomey, small business owner; Karen Prive, Project Coordinator, Southern NH University

**Session:** **June 4, 2009** – Systematic Instruction in the Workplace

**Presenter:** David Hagner, Research Professor, Institute on Disability

**Time:** 9am–12pm

**Location:** Dion Reception Room, Rivier College, Nashua, NH

**Cost:** \$30 each

\* A limited number of spaces are available at no charge to individuals who are currently working in school districts partnering with LinkAbilities.

## 4 EASY WAYS TO REGISTER!

-  **1** online  
**WWW.IOD.UNH.EDU**
-  **2** call to register or to request a registration form  
**603.228.2084**
-  **3** mail a completed registration form  
**INSTITUTE ON DISABILITY**  
**56 OLD SUNCOOK ROAD, SUITE 2**  
**CONCORD, NH 03301**
-  **4** fax a completed registration form  
**603.228.3270**

## RESEARCH TO PRACTICE SERIES

### Literacy and Autism Spectrum Disorders: Translating Research into Practice

This series is intended to assist educators with addressing the literacy learning needs of students with autism spectrum disorders in general education classrooms. Participants will gain knowledge and skills to assess and enhance reading comprehension and writing skills for their students.

**Session:** **Friday, March 27, 2009**  
Balancing the ABC's for Students with ASD

**Presenters:** Karen Erickson and David Koppenhaver

**Cost:** \$150 (includes a copy of Karen and David's book Children with Disabilities: Reading and Writing the Four-Blocks Way )

**Session:** **Thursday, May 7, 2009**  
Silent Reading Comprehension

**Presenter:** Stephanie Spadorcia

**Cost:** \$125

**Time:** 9am 3pm

**Location:** Holiday Inn, Concord, NH

### Introductory Training for Facilitated Communication

Provides participants with a general overview of facilitated communication (FC), FCSection 1 s history, basic FC technique, determining FC candidacy, and a review of research and best practices.

**Date & Location:** **Tuesday, April 14, 2009:** UNH Institute on Disability, Concord, NH

**Time:** 9am 3:30pm

**Cost:** \$95

**Presenter:** Pascal Cheng, M.Ed., C.A.S.

# SAVE THE DATES - OTHER IOD EVENTS

## NH Transition Community of Practice Transition Summit III

**Date:** Monday, March 30, 2009  
**Time:** 8:45 am - 4:00 pm  
**Location:** Grappone Conference Center,  
Concord, NH  
**Cost:** \$30  
**Keynote**  
**Presenter:** Lewis M. Feldstein, President, New  
Hampshire Charitable Foundation

*\*Scholarships available for youth and family members.*

## The Including Samuel Project Presents: The New England Inclusive Education Leadership Summit

**Date:** Friday, April 10, 2009  
**Location:** Center of NH Radisson,  
Manchester, NH

## UNH presents Norman Kunc

**Date:** Thursday, April 16, 2009  
**Location:** Strafford Room, Memorial Union  
Building, UNH, Durham, NH

## Powerful Tools for Caregivers: Class Leader Training

**Dates:** June 3-5, 2009  
**Location:** Ashworth by the Sea, Hampton, NH

## Methods, Models and Tools

**Dates:** June 11, 12, 18, 19, and 26, 2009  
**Location:** University of New Hampshire,  
Durham, NH

## Autism Summer Institute

**Dates:** August 10-13, 2009  
**Location:** Holloway Commons, University of  
New Hampshire, Durham, NH

## Autism National Committee (AutCom) Conference

**Dates:** September 25-26, 2009  
**Location:** Crowne Plaza Hotel, Nashua, NH

## Real Choice Conference

**Date:** Tuesday, October 27, 2009  
**Location:** Center of NH Radisson,  
Manchester, NH

THE INCLUDING SAMUEL PROJECT PRESENTS

## THE NEW ENGLAND INCLUSIVE EDUCATION LEADERSHIP SUMMIT

Friday, April 10, 2009 | Manchester, NH



The New Hampshire Council on Developmental Disabilities offers small grants to individuals or groups to support disability related activities and initiatives that help achieve the Council's mission of "Dignity, Full Rights of Citizenship, Equal Opportunities, and Full Participation for All New Hampshire Citizens with Developmental Disabilities." The following types of grants are available, subject to available funds.

### **COMMUNITY EDUCATION GRANTS**

The Council provides grants of up to \$1000 to develop or offer conferences, trainings or other disability-related educational events in New Hampshire:

1. To educate people with developmental disabilities and their families about specific disabilities and develop their leadership skills and ability to advocate for themselves and others, or
2. To educate professionals in all fields who serve and support people with disabilities to –
  - ♦ Provide greater understanding of disabilities;
  - ♦ Expand community capacity; and
  - ♦ Promote promising practices.

### **COMMUNITY PROJECT GRANTS**

The Council provides grants of up to \$1000 to support community projects that help achieve goals in the Council's five-year plan. Projects should:

1. Provide individuals with developmental disabilities with opportunities to be a part of community life;
2. Foster new and different ways to –
  - ♦ Help address a barrier or challenge facing people with disabilities,
  - ♦ Serve more people; or
  - ♦ Improve quality of life; or
3. Educate the public and change the way people think about people with disabilities.

### **TEEN GRANTS**

The Council provides grants of up to \$500 per project to teens or young adults, ages 14 - 21, who want to make their schools or communities more welcoming to people of all abilities. A team or committee must be formed that includes at least one teen or young adult with a disability in a leadership role and one adult support person. Projects should:

1. Address some barrier or challenge that teens or young people with disabilities currently face, or support them in advocating for themselves; or
2. Focus on the importance of building relationships by taking part in everyday activities with others in their schools and communities.

Please visit our website [www.nhddc.org](http://www.nhddc.org) for the Small Grant Application.

### **– COUNCIL MEMBERS NEEDED –**

The New Hampshire Council on Developmental Disabilities, Membership Relations Committee is now accepting applications for new members. We are currently accepting applications for People with Disabilities and Family Members. For more information, Please contact David Ouellette at 603-271-3236.

### **SUPPORT THE RAP SHEET!**

To make online donations, please go to:  
<http://www.drcnh.org/donate.htm>  
or send your check to the  
Disabilities Rights Center  
18 Low Avenue, Concord, NH 03301  
DONATIONS ARE TAX DEDUCTIBLE

## DISABILITIES RIGHTS CENTER, INC.

18 Low Avenue, Concord, NH 03301-4971

Voice and TDD: (603) 228-0432 ♦ 1-800-834-1721 ♦ FAX: (603) 225-2077

TDD access also through NH Relay Service: 1-800-735-2964 (Voice and TDD)

E-mail: [advocacy@drcnh.org](mailto:advocacy@drcnh.org) ♦ Website: [www.drcnh.org](http://www.drcnh.org)

*"Protection and Advocacy System for New Hampshire"*

*The Disabilities Rights Center is dedicated to eliminating barriers to the full and equal enjoyment of civil and other legal rights for people with disabilities.*

## INSTITUTE ON DISABILITY/UCED – UNIVERSITY OF NH

10 West Edge Drive, Suite 101, Durham, NH 03824-3522

Phone (Tel/TTY): (603) 862-4320 ♦ Fax: (603) 862-0555 ♦ Website: [www.iod.unh.edu](http://www.iod.unh.edu)

### Institute on Disability/UNH – Concord

56 Old Suncook Road, Suite 2

Concord, NH 03301

Phone (Tel/TTY): (603) 228-2084

### Institute on Disability/UNH – Manchester

340 Commercial Street, 2nd floor

Manchester, NH 03101

Phone: (603) 628-7681

*The Institute on Disability advances policies and systems changes, promising practices, education and research that strengthen communities and ensure full access, equal opportunities, and participation for all persons.*

## NH COUNCIL ON DEVELOPMENTAL DISABILITIES

21 South Fruit Street, Suite 22, Room 290

Concord, NH 03301-2451

Phone: (603) 271-3236 ♦ TTY/TDD: 1-800-735-2964 ♦ Website: [www.nhddc.org](http://www.nhddc.org)

*Dignity, full rights of citizenship, equal opportunity, and full participation for all New Hampshire citizens with developmental disabilities.*

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The contents are solely the responsibility of the grantees and do not necessarily represent the official views of the federal grantors.



## NH COUNCIL ON DEVELOPMENTAL DISABILITIES

21 South Fruit Street, Suite 22, Room 290

Concord, NH 03301-2451

### CHANGE SERVICE REQUESTED

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