

Readopt with amendment He-E 701, effective 9-1-12 (Document #10179), cited and to read as follows:

CHAPTER He-E 700 ADULT PROTECTION SERVICES PROGRAM

Statutory Authority: RSA 161-F:55

PART He-E 701 OVERVIEW

He-E 701.01 Purpose. The purpose of the adult protective services program is to:

- (a) Receive and investigate reports of abuse, neglect, self-neglect, or exploitation of vulnerable adults;
- (b) Provide protective services, if necessary; and
- (c) Maintain the department of health and human services, bureau of elderly and adult services (BEAS) state registry in accordance with RSA 161-F:49.

He-E 701.02 Definitions.

- (a) “Abuse” as defined in RSA 161-F:43, II, means any one of the following:
 - (a) ““Emotional abuse” means the misuse of power, authority, or both, verbal harassment, or unreasonable confinement which results or could result in the mental anguish or emotional distress of a vulnerable adult;
 - (b) “Physical abuse” means the use of physical force which results or could result in physical injury to a vulnerable adult; or
 - (c) “Sexual abuse” means contact or interaction of a sexual nature involving a vulnerable adult without his or her informed consent”.
- (b) “Administrative appeals unit (AAU)” means the unit of the department that receives appeal requests, schedules proceedings, conducts pre-hearing conferences and hearings, and issues decisions for the department.
- (c) “Adult protective services program (APS)” means the program which encompasses all the tasks and responsibilities completed in accordance with the adult protection law, RSA 161-F:42-57.
- (d) “Adult protective service worker (APSW)” means the individual employed by BEAS and certified by the New Hampshire department of administrative services, division of personnel, to carry out all tasks and responsibilities defined in statute, administrative rule, and program policy as they relate to the adult protective services program.
- (e) “Allegation” means an assertion that a vulnerable adult has been abused, neglected, exploited, or has self-neglected.
- (f) “Alleged perpetrator” means an individual who is reported to have abused, neglected, or exploited a vulnerable adult for an incident that has not received a founded or unfounded determination.
- (g) “Alleged victim” means an adult who is or was vulnerable at the time of the alleged incident who allegedly suffered abuse, neglect, self-neglect, or exploitation.
- (h) “Bureau administrator,” for purposes of this rule, means the administrator of BEAS, or the

administrator's designee, appointed by the commissioner of the department of health and human services to carry out the responsibilities described in RSA 161-F:42-57.

(i) "Bureau of elderly and adult services (BEAS)" means the New Hampshire department of health and human services bureau of elderly and adult services.

(j) "BEAS state registry (state registry)" means a database containing information on founded reports of abuse, neglect, or exploitation of vulnerable adults by a paid or volunteer caregiver, guardian, or agent acting under the authority of any power of attorney (POA) or any durable power of attorney (DPOA) pursuant to RSA 161-F:49.

(k) "Case management" means the tasks associated with the ongoing assessment, person-centered planning, coordination, and monitoring of services provided to an adult protection program client by an APSW.

(l) "Collateral contacts" means individuals who have either witnessed or have information about an alleged situation that could aid the investigator in determining the facts necessary to complete a protective investigation in accordance with RSA 161-F:42-57 and He-E 700.

(m) "Commissioner" means the commissioner of the department of health and human services, or the commissioner's designee.

(n) "Date of approval" means the date that the completed protective investigation or disposition is approved by the supervisor.

(o) "Determination" means the finding, following a protective investigation completed pursuant to RSA 161-F:42-57, that the alleged abuse, neglect, self-neglect, or exploitation of a vulnerable adult is either founded or unfounded.

(p) "Disposition" means an administrative classification to indicate that an investigation described in RSA 161-F:42-57 could not be initiated or could not be completed.

(q) "Exploitation" means "exploitation" as defined in RSA 161-F:43, IV, namely "the illegal use of a vulnerable adult's person or property for another person's profit or advantage, or the breach of a fiduciary relationship through the use of a person or a person's property for any purpose not in the proper and lawful execution of a trust, including, but not limited to, situations where a person obtains money, property, or services from a vulnerable adult through the use of undue influence, harassment, duress, deception, or fraud."

(r) "Facility administrator" means the administrator of a licensed facility described in RSA 151:2 I.

(s) "Founded" means the determination that one or more of the allegations included in a report of alleged abuse, neglect, self-neglect, or exploitation of a vulnerable adult met one or more of the definitions contained in RSA 161-F:43, II (a), (b), (c), III, IV, or VI.

(t) "Guardian" means an individual who has been appointed by the probate court in accordance with RSA 464-A, to have care or custody or manage the estate of another individual adjudicated to be incapacitated.

(u) "Guardianship" means a fiduciary relationship wherein, following a petition, hearing, and other proceedings described in RSA 464-A, an individual is appointed by the probate court to have care and custody of another individual who is adjudged by the court to be incapable of managing personal needs, property, or financial affairs.

(v) “Guardianship hearing” means the hearing on a petition which is held in accordance with RSA 464-A, where the petitioner has the responsibility to establish why the proposed ward, who is the subject of the petition, is in need of a guardian.

(w) “Imminent danger” means that the circumstances of an alleged victim, as described in a protective report, suggest that injury or death could occur immediately.

(x) “Investigator” means a person designated or employed by the department, in accordance with a protocol developed by the department to ensure objectivity, thoroughness, timeliness, and uniformity in methodology and format in the conduct of investigations and investigation reports. An investigator may include an investigator employed by an area agency or community mental health center, if designated by the department.

(y) “Neglect” means “neglect” as defined in RSA 161-F:43, III, namely “an act or omission which results or could result in the deprivation of essential services or supports necessary to maintain the minimum mental, emotional or physical health and safety of a vulnerable adult.”

(z) “Notification” means the processes described in He-E 701.11, by which the parties named in He-E 701.11 are informed as to whether the investigation has resulted in a founded or an unfounded determination, or in a disposition.

(aa) “Perpetrator” means a person who, following a protective investigation completed in accordance with RSA 161-F:42 through RSA 161-F:57 and He-E 700, is found to have abused, neglected, or exploited a vulnerable adult.

(ab) “Protective investigation” means the process by which the investigator inquires into a report of alleged abuse, neglect, self-neglect, or exploitation, pursuant to RSA 161-F:42-57, in order to determine the validity of the allegation(s) and the need for protective services.

(ac) “Protective investigation file” means the individual record that contains all the information related to the protective investigation.

(ad) “Protective investigation summary” means the investigator’s written report that contains information obtained during the protective investigation, except for the identity of the reporter, as well as the determination made at the conclusion of the investigation.

(ae) “Protective report” means a notification to the APS unit that an adult who is, who was, or who is suspected to be vulnerable, has been subjected to abuse, neglect, self-neglect, or exploitation or is living in hazardous conditions.

(af) “Protective services” means “protective services” as defined in RSA 161-F:43, I, namely “services and action which will, through voluntary agreement or through appropriate court action, prevent neglect, abuse, or exploitation of vulnerable adults. Such services shall include, but not be limited to, supervision, guidance, counseling and, when necessary assistance in the securing, of nonhazardous living accommodations, and mental and physical examinations.”

(ag) “Reconsideration” means the process described in He-E 701.13 that is conducted following a founded determination if the reconsideration is requested by a perpetrator who is not registry eligible, or by a founded victim of self-neglect.

(ah) “Registry eligible” means a paid or volunteer caregiver, guardian, or agent acting under the authority of any POA or any DPOA who is a perpetrator and therefore is eligible to be listed on the BEAS state registry in accordance with these rules and pursuant to RSA 161-F:49.

(ai) “Registry eligible alleged perpetrator review” means the process described in He-E 701.09 that is conducted following a recommended founded determination and prior to the date of approval if the review is requested by an alleged perpetrator of abuse, neglect, or exploitation who is registry eligible.

(aj) “Reporter” means the individual who reports in accordance with RSA 161-F:46 that an adult, who is suspected to be vulnerable, at the time of the incident, has been subjected to abuse, neglect, self-neglect, or exploitation.

(ak) “Self-neglect” means self-neglect as defined in RSA 161-F:43, VI, namely “an act or omission by a vulnerable adult which results or could result in the deprivation of essential services or supports necessary to maintain his or her minimum mental, emotional, or physical health and safety.”

(al) “Serious bodily injury” means any harm to the body which causes or could cause severe, permanent, or protracted loss of or impairment to the health or of the function of any part of the body.

(am) “Supervisor” means the individual employed by BEAS and certified by the New Hampshire department of administrative services, division of personnel, who oversees the work of APSWs.

(an) “Unfounded” means the determination that a report of alleged abuse, neglect, self-neglect, or exploitation of a vulnerable adult did not meet the definitions contained in RSA 161-F:43, II(a), (b), (c), III, IV, or VI.

(ao) “Victim” means the vulnerable adult who, following a protective investigation completed in accordance with RSA 161-F:42-57 and He-E 700, is found to have been abused, neglected, exploited, or engaged in self-neglect.

(ap) “Vulnerable” means vulnerable as defined in RSA 161-F:43, VII, namely “the physical, mental, or emotional ability of a person is such that he or she is unable to manage personal, home, or financial affairs, in his or her own best interest, or he or she is unable to act or unable to delegate responsibility to a responsible caretaker or caregiver.”

(aq) “Vulnerable adult” means an individual aged 18 or older who is vulnerable as defined in (ap) above and RSA 161-F:43, VII.

(ar) “Ward” means “ward” as defined in RSA 464-A:2, XVI, namely “a person for whom a guardian of the person and the estate, or the person, or the estate, has been appointed.”

He-E 701.03 Protective Reports.

(a) When making a report as required by RSA 161-F:46, the reporter may make the report in person, by telephone, by letter, or electronically.

(b) A report may be made anonymously. Individuals shall be encouraged to identify themselves, but anonymous reports shall be accepted.

(c) Individuals making reports may choose to allow disclosure of the individual’s identity to the alleged victim.

(d) A person wishing to make a report may contact any district office, the BEAS central office, or the APS central intake office.

(e) After business hours or during weekends or holidays, individuals making reports shall contact the police department of the applicable political subdivision, or the sheriff of the county in which the alleged abuse, neglect, self-neglect, or exploitation occurred, in accordance with RSA 161-F:46, I.

(f) If the report does not meet the criteria for a protective investigation to be initiated pursuant to He-E 701.04, the reporter shall be provided with information regarding community resources.

(g) As soon as possible, but no later than 72 hours following receipt of a protective report, BEAS shall initiate a protective investigation.

(h) In cases of imminent danger, BEAS shall immediately initiate a protective investigation of the allegations detailed in the report and approve the authorization of protective services if necessary to protect the alleged victim.

(i) If the alleged victim has a guardian, BEAS shall contact the guardian to inform the guardian that a protective report has been received, and request a copy of the guardianship order.

(j) If the alleged perpetrator is the guardian of the alleged victim, BEAS shall:

(1) Notify the circuit court – probate division of jurisdiction; and

(2) Notify the supervisor, who shall postpone contact with the guardian if the alleged victim's safety is in jeopardy.

(k) If the intake contains information that the alleged victim has suffered serious bodily injury that is known or suspected to result from abuse, neglect, or exploitation, or if there is reason to believe that a crime has been committed, BEAS shall notify the appropriate law enforcement agency and the department of justice within 72 hours or as soon as the protective investigation has begun.

(l) Upon taking a protective report, BEAS shall notify the agencies listed in He-E 701.11(a)(3)-(5) as appropriate.

He-E 701.04 Protective Investigation Requirements.

(a) The department shall conduct a protective investigation on each report received, except as described in (b), (c), or (d) below.

(b) The department shall not conduct or complete a protective investigation when any of the following apply:

(1) The alleged victim does not fall under the reporting requirement described in RSA 161-F:46;

(2) The allegation(s) is determined not to meet any of the definitions of abuse, neglect, exploitation, or self-neglect contained in RSA 161-F:43;

(3) When the alleged victim cannot be located and the department determines that an interview with the alleged victim is necessary to conduct the investigation;

(4) When the alleged victim no longer resides in New Hampshire and adult protective staff has referred or attempted to refer the report to appropriate adult protective services or law enforcement;

(5) When the investigator has made multiple attempts to interview the alleged victim and the alleged victim:

a. Declines to be interviewed;

- b. Does not display any indications of having suffered cognitive decline; and
- c. Is not in imminent danger;

(6) When the alleged victim cannot be reached for interview and the investigator has:

- a. Made at least 3 attempts to contact the alleged victim by phone;
- b. Made 3 unannounced home visits to attempt to contact the alleged victim; and
- c. Contacted or attempted to contact anyone the investigator suspects may have knowledge of the alleged victim's whereabouts;

(7) When the report involves an incident or situation of abuse, neglect, or exploitation that allegedly occurred one or more years ago, and there is no current contact with the alleged perpetrator;

(8) When the report does not include sufficient information to allow an investigation to be conducted under RSA 161-F:42-57;

(9) When the alleged perpetrator dies prior to the initiation of the investigation, or after the investigation has been initiated, but before it is completed;

(10) When another DHHS bureau has been or will be conducting an investigation because the alleged perpetrator is living in a certified or licensed facility or residence at the time of the alleged incident;

(11) When the report is determined to be frivolous or without factual basis as described in RSA 161-F:46, III;

(12) For reports of self-neglect when the alleged victim is in or enters into a hospice program and is compliant with a hospice treatment plan; or

(13) When the alleged victim and the alleged perpetrator are both residents of a licensed or certified facility after the report and adult protective staff has referred the report to the appropriate licensing entity.

(c) When the report is criminal in nature, and a criminal investigation will be or has been conducted by law enforcement, the department shall not conduct or complete an investigation unless one or more of the following apply:

- (1) The alleged perpetrator is registry eligible;
- (2) The investigator has determined that the alleged victim is in need of protective services; or
- (3) The alleged perpetrator has ongoing contact with the alleged victim.

(d) When the alleged victim has died, the department shall not conduct or complete an investigation when any of the following apply:

- (1) When a report is self-neglect;
- (2) When the alleged perpetrator is not registry eligible; or
- (3) When the alleged victim has not been interviewed and BEAS determines that an interview with the alleged victim is necessary to the investigation.

He-E 701.05 Dispositions.

(a) In situations where the supervisor determines that an investigation cannot be conducted, cannot be completed, or is duplicative of a protective investigation completed within the previous 12 months, a report shall result in one of the following dispositions:

- (1) No investigation conducted; or
- (2) Investigation not completed.

(b) For reports that are duplicative of a protective investigation completed within the last 12 months the report shall be added to the alleged victim's protective investigation file.

He-E 701.06 Interviews.

(a) The investigator shall interview the alleged victim in person, regardless of his or her mental or physical condition, even if the alleged victim cannot communicate verbally, unless the circumstances do not allow for an in person interview. If circumstances do not allow an in-person interview, the investigator shall interview the alleged victim via any means that allows contemporaneous communication and protects the privacy of the alleged victim.

(b) During the interview, the investigator shall:

- (1) Identify himself or herself and describe BEAS' responsibility to investigate in accordance with RSA 161-F:42-57;
- (2) Inform the alleged victim that a report of abuse, neglect, self-neglect, or exploitation has been received;
- (3) Not reveal the reporter's name, unless the reporter chose to allow disclosure of the reporter's identity pursuant to He-E 701.03(c);
- (4) Explain the role of the investigator and the purpose of the investigation;
- (5) Specify the allegation(s) and other concerns contained in the protective report and request the alleged victim's response;
- (6) Obtain information regarding the alleged victim's safety, functioning, and environment;
- (7) Inform the alleged victim that there might be a need to interview other individuals to complete the investigation, and ask for the names of any individuals whom the alleged victim identifies as someone who may have information; and
- (8) If the alleged victim has a guardian, inform the alleged victim that at the conclusion of the investigation the guardian will be notified about the investigation results.

(c) The investigator shall request a face-to-face interview with the alleged perpetrator.

(d) If the alleged perpetrator is a minor, the investigator shall:

- (1) Contact the alleged perpetrator's guardian to inform the guardian of the need to interview the minor; and
- (2) Offer the guardian the opportunity to be present at the interview, and if the guardian does

not choose to do so, obtain written permission to interview the minor without the guardian's presence.

(e) If the alleged perpetrator has a guardian appointed pursuant to RSA 464-A, the investigator shall contact the guardian to inform the guardian of the need to interview the alleged perpetrator, except under the circumstances described in He-E 701.03(j).

(f) If the alleged perpetrator refuses to be interviewed or cannot be located, the investigator shall send a letter to the alleged perpetrator's last known address, requesting an interview.

(g) If the alleged perpetrator has a guardian who refuses to allow his or her ward to be interviewed, the investigator shall notify the guardian by letter, sent by United States Postal Service first class mail that a determination shall be made without the alleged perpetrator's input.

(h) If the alleged perpetrator cannot be located, or can be located but does not consent to be interviewed, the investigator shall proceed with the investigation and make a determination based on information available from the alleged victim, collateral contacts, written reports and records, and other relevant information or documentation.

(i) When interviewing the alleged perpetrator, the investigator shall:

(1) Identify himself or herself and describe the responsibility of BEAS to investigate in accordance with RSA 161-F:42-57;

(2) Inform the alleged perpetrator that a report of abuse, neglect, or exploitation has been received;

(3) Not reveal the reporter's name;

(4) Explain the role of the investigator and the purpose of the investigation;

(5) Specify the allegation(s) and other concerns contained in the report and request the alleged perpetrator's response;

(6) Inform the alleged perpetrator that there might be a need to interview other individuals to complete the investigation, and ask for the names of any individuals whom the alleged perpetrator identifies as having information; and

(7) Inform the alleged perpetrator that, at the conclusion of the investigation, the alleged perpetrator and the alleged perpetrator's guardian, if any, shall be notified about the investigation results, including information about due process and the BEAS state registry if applicable.

(j) The investigator shall interview available collateral contacts who have pertinent information on the reported allegation(s), including, but not limited to, the following:

(1) The individuals whom the alleged victim or the alleged perpetrator have identified as having information; and

(2) Any other individuals who have come to the investigator's attention as having information regarding the allegations(s).

He-E 701.07 Investigation Responsibilities and the Determination. During the course of the investigation, the investigator shall:

- (a) Conduct all interviews as described in He-E 701.06;
- (b) As necessary, request protective services to be approved by the supervisor to protect the alleged victim while the investigation is in progress;
- (c) Obtain and review relevant written reports, records, photographs, and any other necessary documentation in accordance with RSA 161-F:56;
- (d) Consult, as necessary, with other professionals who have expertise regarding the type of report or allegations being investigated;
- (e) Review all information collected during the investigation process;
- (f) Determine whether or not the allegation(s) is or are substantiated;
- (g) Determine whether or not the report is founded or unfounded based on the following:
 - (1) Statements made by the alleged victim;
 - (2) Supporting testimony given by collateral contacts;
 - (3) Supporting written, photographic, audio, or visual documentation; or
 - (4) Statements made by the alleged perpetrator, if any; and
- (h) Complete all required forms, summaries, and letters in order to document the investigation and provide necessary notification(s).

He-E 701.08 Purpose of a Review.

- (a) A registry eligible perpetrator may, in accordance with He-E 701.09 below, request a review by the bureau administrator for the purpose of considering new or additional information, or to dispute the accuracy of the information obtained during the investigation.
- (b) With the request for a review, the registry eligible perpetrator shall provide new or additional information to dispute the finding or the accuracy of the information used to make the recommended founded determination.
- (c) The bureau administrator shall consider the new or additional information to determine if the recommended founded determination shall be upheld or overturned.

He-E 701.09 Registry Eligible Alleged Perpetrator Review Prior to Completion of the Investigation.

- (a) For a report involving an alleged perpetrator who is registry eligible, upon a recommended founded determination and prior to the date of approval, the investigator shall send written notice to the alleged perpetrator and the alleged perpetrator's guardian, if any, of the recommended founded determination and the option to request a review prior to completion of the investigation.
- (b) The bureau shall notify the registry eligible alleged perpetrator's parent or guardian if the request for review is received directly from a perpetrator who is under 18 years of age.
- (c) The bureau shall notify the registry eligible alleged perpetrator's guardian if the request for review is received directly from a perpetrator who is 18 years or older and has a guardian appointed by the probate court in accordance with RSA 464-A.

(d) If the alleged perpetrator who is registry eligible wants a review, the alleged perpetrator shall submit a request for review to the bureau administrator within 5 business days of the date of the notice, which may be made via telephone or electronic mail to the phone number or address indicated on the notice.

(e) All requests for a review by a registry eligible alleged perpetrator shall contain:

- (1) The full name, address, date of birth, and telephone number of the alleged perpetrator; and
- (2) A statement that explains the reason(s) for requesting the review and the additional information the alleged perpetrator wishes to present.

He-E 701.10 Notification Following a Request of Review by a Registry Eligible Alleged Perpetrator.

(a) Following a request of review by a registry eligible perpetrator, the bureau administrator shall send written notification to the alleged perpetrator and the alleged perpetrator's guardian, if any, of whether the recommendation of the investigator is approved, overturned, or returned to the investigator for further investigation.

(b) If the recommendation of the investigator is upheld following a review, within 5 business days of the date of the review, a notice to the perpetrator shall be sent in accordance with RSA 161-F:49, II and He-E 701.11.

(c) If the recommendation of the investigator is overturned following a review, within 5 business days of the date of the review, a notice shall be sent to the alleged perpetrator or the alleged perpetrator's guardian, if any, in accordance with He-E 701.11.

(d) If the report is returned to the investigator for further investigation following a review, notice shall be sent to the alleged perpetrator or the alleged perpetrator's guardian, if any, within 10 business days of the review.

He-E 701.11 Notification Following Investigation.

(a) Upon completion of an investigation or investigation not completed disposition pursuant to He-E 701.05, the investigator shall notify the following individuals and agencies:

- (1) The alleged victim and the alleged victim's guardian, if any;
- (2) The alleged perpetrator, if any, and the alleged perpetrator's guardian, if any;
- (3) The probate court, if the alleged perpetrator is the guardian of the alleged victim at the time the alleged abuse, neglect, or exploitation occurred;
- (4) The department's office of client and legal services, established in accordance with RSA 171-A:19, if the alleged perpetrator is a public guardian of the alleged victim; and
- (5) A home health agency or another agency, if the agency employs or did employ the alleged perpetrator at the time of the alleged abuse, neglect, or exploitation.

(b) All notices sent after the completion of an investigation or an investigation not completed disposition shall:

- (1) Be sent by United States Postal Service first class mail, or be hand-delivered; and
- (2) State whether the report was founded, unfounded, or resulted in an investigation not completed disposition.

(c) If the investigation resulted in a disposition of investigation not completed, in addition to the information described in (b) above, the notice shall contain the reason for the disposition.

(d) In accordance with RSA 161-F:49, II, if the investigation resulted in a founded determination and the perpetrator is registry eligible, the notice(s) issued in accordance with (a) shall:

- (1) Be sent within 5 business days; and
- (2) Contain:
 - a. The identity of the perpetrator;
 - b. A description of the allegation stated in the report;
 - c. The reasons for the founded determination, the consequences of such a finding, and that such information is required to be entered on the BEAS state registry in accordance with He-E 701.22 and RSA 161-F:49;
 - d. Information on the right to appeal as described in He-E 701.15; and
 - e. Whether services shall be provided, but only in notice(s) sent to the victim and the victim's guardian.

(e) For reports of self-neglect, abuse, neglect, or exploitation, if the investigation resulted in a founded determination, and the perpetrator is not registry eligible, notice(s) issued in accordance with (a) shall include the following information:

- (1) The type and description of the allegations stated in the report;
- (2) The reasons for the founded determination;
- (3) The procedures by which the perpetrator or victim of self-neglect may request a reconsideration pursuant to He-E 701.14; and
- (4) Whether services shall be provided, but only in notice(s) sent to the victim and the victim's guardian.

He-E 701.12 Purpose of a Reconsideration. The purpose of a reconsideration of a founded determination for a non-registry eligible perpetrator or victim of self-neglect shall be for the bureau administrator to consider new or additional information, or the accuracy of the information obtained during the investigation, or both.

He-E 701.13 Request for Non-Registry Eligible Reconsideration.

(a) For founded cases of abuse, neglect, or exploitation, a perpetrator who is not registry eligible, or the perpetrator's guardian, if any, or the victim of self-neglect, or the guardian of the victim of self-neglect, if any, shall submit a request for reconsideration to the bureau administrator within 10 business days of the date of the notice in He-E 701.11, which may be made via telephone or electronic mail to the phone number or address indicated on the notice, and include the following:

- (1) The name, address, and telephone number of the perpetrator or victim of self-neglect; and
- (2) A statement that explains the reasons for requesting the reconsideration.

(b) The bureau shall notify the guardian of the perpetrator or the guardian of the victim of self-

neglect of the request for a non-registry eligible reconsideration if the request is received directly from one of the following:

- (1) A perpetrator who is under 18 years of age; or
- (2) A perpetrator or victim of self-neglect who is 18 years or older and has a guardian appointed by the probate court in accordance with RSA 464-A.

He-E 701.14 Notification Following a Non-Registry Eligible Reconsideration.

- (a) If the original determination of the investigation is upheld, a notice shall:
 - (1) Be sent within 5 business days of the reconsideration to the perpetrator and the perpetrator's guardian, if any, or to the victim of self-neglect and the guardian of the victim of self-neglect, if any; and
 - (2) Contain an explanation of why the determination was upheld.
- (b) If the original determination of the investigation is overturned, notice shall be sent within 5 business days of the reconsideration to:
 - (1) The perpetrator and the perpetrator's guardian, if any, or to the victim of self-neglect and the guardian of the victim of self-neglect, if any; and
 - (2) The victim of a founded report of abuse, neglect, or exploitation and the victim's guardian, if any.
- (c) The 5 business day decision period stipulated in (a) and (b) above shall only be extended with the agreement of:
 - (1) The alleged perpetrator and the alleged perpetrator's guardian, if any; or
 - (2) The alleged victim of a founded report of self-neglect and the guardian of the victim of self-neglect, if any.

He-E 701.15 Appeal Rights.

- (a) Perpetrators who are registry eligible shall have a right to contest the finding by appealing to the AAU within 10 business days of the date of the notice of a founded determination.
- (b) Pending the outcome of an appeal requested in (a) above, the perpetrator's information shall not be entered onto the BEAS state registry.
- (c) In accordance with RSA 161-F:49, IV, a perpetrator's information shall be entered onto the BEAS state registry if the perpetrator appeals the founded determination and it is upheld by the administrative appeals unit, unless contrary to a court order.
- (d) Failure to request an appeal within the timeframes identified in (a) above, shall constitute a waiver of the right to an administrative appeal of the department's founded determination.
- (e) Perpetrators who are registry eligible shall have the right to:
 - (1) Receive a full and fair administrative hearing, including the right to be represented by counsel at the perpetrator's own expense;
 - (2) Appeal an adverse decision by the AAU to the probate court in accordance with RSA 161-

F:49, V; and

(3) Petition to have the finding expunged from the BEAS state registry pursuant to RSA 161-F:49, X.

He-E 701.16 Opening a Protective Services Program Case.

(a) When a protective investigation is concluded, the investigator shall determine that there is a need for protective services if any of the following is true:

- (1) The vulnerable adult's health or safety is in jeopardy and is not being addressed by the service provider or informal support system;
- (2) The vulnerable adult's living arrangement is unsafe; or
- (3) The vulnerable adult has functional or cognitive limitations that prevent the necessary performance of personal care activities or household tasks.

(b) Following a protective investigation, the APSW shall open a case in the adult protective services program to provide protective services to, and authorize protective services for a vulnerable adult when the following conditions are met:

- (1) There is a need for protective services as determined in (a) above;
- (2) The vulnerable adult agrees to accept protective services; and
- (3) The vulnerable adult and the vulnerable adult's guardian, if the vulnerable adult has a guardian, has participated in the development of a protective services program case plan.

He-E 701.17 Protective Services. Protective services shall consist of any or all of the following:

- (a) Case management services provided directly by the APSW;
 - (b) Services authorized or coordinated by the APSW and provided by other individuals or agencies;
- and
- (c) Services coordinated by the APSW and provided by families, community organizations, or volunteer groups.

He-E 701.18 Role of BEAS in the Guardianship Process.

(a) The adult protective services program shall have one of the following roles in the guardianship process described in RSA 464-A:

- (1) Providing information about the guardianship process to individuals who are filing for guardianship; or
- (2) Petitioning for the appointment of a guardian for a vulnerable adult, pursuant to RSA 161-F:52 and RSA 464-A.

(b) The following criteria shall be met prior to petitioning for the appointment of a guardian for a vulnerable adult:

- (1) All other less restrictive options, including the provision of other appropriate protective services, have been exhausted;

- (2) A protective investigation has been completed and there is a founded determination;
- (3) The bureau administrator has determined that there is a need for protective services;
- (4) The vulnerable adult is unable to meet his or her own needs for food, clothing, shelter, health care, or safety, or is unable to manage property or financial matters, as described in RSA 464-A:2, VII;
- (5) The vulnerable adult cannot exercise informed judgment, as defined in RSA 464-A:2, XII; and
- (6) Family members who have a relationship with the vulnerable adult have been contacted, and have indicated to BEAS that they are unable or unwilling to pursue guardianship.

(c) When the criteria listed in (b)(1) - (6) above are not met, a petition for the appointment of a guardian may still be requested when the bureau administrator determines that without the provision of a guardian, there is a serious likelihood that the vulnerable adult would face a risk of death or serious physical or mental harm to him or herself.

He-E 701.19 Guardianship Hearing. If BEAS is not the petitioner, adult protection program staff shall attend guardianship hearings only if subpoenaed.

He-E 701.20 Releasing Information. Information about the investigation shall be confidential, and shall only be released by BEAS to the parties named in He-E 701.21 below.

He-E 701.21 Who May Receive Information.

(a) When the investigation is in process, information which has been obtained, or which is in the process of being obtained, shall be released to the following, but only that information which is necessary for the receiving entity to carry out its statutory or regulatory mandates or service provision:

- (1) The department of justice, other law enforcement officials, or a court;
- (2) The health facilities administration, when the investigation involves an alleged victim residing in a facility overseen by the health facilities administration, except that the reporter's name shall not be released;
- (3) The bureau of behavioral health, when the investigation involves an alleged victim who receives services from a community mental health program or resides at a facility overseen by the bureau of behavioral health, except that the reporter's name shall not be released;
- (4) New Hampshire hospital or Glencliff home when the alleged victim who resides at the facility, except that the reporter's name shall not be released;
- (5) The bureau of developmental services, when the investigation involves an alleged victim who resides in a facility or participates in a program overseen by the bureau of developmental services, except that the reporter's name shall not be released;
- (6) The office of the state long-term care ombudsman, when the investigation involves an alleged victim residing in a licensed nursing facility, licensed assisted living facility, licensed residential care facility, or licensed supported residential care facility, except that the reporter's name shall not be released;
- (7) The board of nursing, when the investigation involves a victim who is alleged to have been

abused, neglected, or exploited by an individual licensed by the board, except that the reporter's name shall not be released; and

(8) Agencies or individuals who provide services to the alleged victim, except that the reporter's name shall not be released.

(b) When the investigation is completed, and a determination has been made, information shall be released, if requested, to the following agencies and individuals who request it, in accordance with the provisions specified below:

(1) To the victim and the victim's guardian, if any, or, if the victim is deceased, the executor or administrator of the victim's will, a copy of the protective investigation summary, except that the reporter's name shall not be released;

(2) To the perpetrator and the perpetrator's guardian if any, a copy of the protective investigation summary, but only when a founded determination has been made, except that the reporter's name shall not be released;

(3) To the department of justice, a court-appointed attorney for the proposed ward or ward, or any other law enforcement officials, a copy of the protective investigation summary or any other requested information, including the reporter's name if requested;

(4) To a court, a copy of the protective investigation summary or any other requested information, including the reporter's name if requested;

(5) To the board of nursing and the health facilities administration, a copy of the investigation summary, but only when a founded determination has been made, except that the reporter's name shall not be released;

(6) To the bureau of behavioral health and the bureau of developmental services, only that information that is needed by those bureaus to carry out their statutory mandates, except that the reporter's name shall not be released;

(7) To agencies or individuals who are, who were, or who will be, participants in providing services to the victim, only that information needed to provide services, except that the reporter's name shall not be released;

(8) To a family member or another individual who is petitioning for the appointment of a guardian for a victim, only that information related to the petition for guardianship except that the reporter's name shall not be released; and

(9) To employers as provided in RSA 161-F:49, VII, a copy of the protective investigation summary, except that the name of the reporter, the last name of the victim and the last name of any individual cited in the summary shall not be released.

(c) When a disposition has been used, information shall be released, if requested, to:

(1) The alleged victim and the alleged victim's guardian, if any, or, if the alleged victim is deceased, the executor or administrator of the alleged victim's will, if the alleged victim was contacted or interviewed, except that the reporter's name shall not be released;

(2) The alleged perpetrator and the alleged perpetrator's guardian, if any, provided that the alleged perpetrator was contacted or interviewed, except that the reporter's name shall not be released; and

(3) The department of justice, other law enforcement officials, a court-appointed attorney for the proposed ward or ward, or a court, including the reporter’s name, if requested.

He-E 701.22 The BEAS State Registry. BEAS shall maintain a state registry for the purpose of maintaining a record of information on each founded report of abuse, neglect, or exploitation toward an individual by a paid or volunteer caregiver, guardian, or agent acting under the authority of any POA or any DPOA in accordance with RSA 161-F:49.

He-E 701.23 Retention of Protective Investigation Material.

(a) For all investigations of self-neglect that are determined to be unfounded, material related to the investigation shall be retained for one year after the date of approval.

(b) For all other investigations that result in an unfounded determination, material related to the investigation shall be retained for 3 years from the date of approval.

(c) For all investigations that result in a founded determination, the material related to the investigation shall be retained for 7 years after the date of approval, or for 7 years after the date the perpetrator’s name is entered onto the registry.

(d) For investigations in which founded determinations are overturned based on either the reconsideration process or on appeal the material related to the investigation shall be retained pursuant to (a) or (b) above from the date of the notice or decision.

(e) For investigations that result in a founded determination, based on the reconsideration process or on appeal, material related to the investigation shall be retained for 7 years from the date of the notice or the decision.

(f) For investigations that result in one of the dispositions described in He-E 701.05, material related to the investigation shall be retained for 6 months from the date of approval.

APPENDIX

Rule	Specific State or Federal Statutes or Regulations the Rule Implements
He-E 701.01	RSA 161-F:46; RSA 161-F:51; RSA-161-F:55
He-E 701.02	RSA 161-F:43; RSA 161-F:55; RSA 541-A:7
He-E 701.03	RSA 161-F:46; RSA 161-F:43, II-V
He-E 701.04	RSA 161-F:46, II; RSA 161-F:51; RSA 161-F:53; RSA 161-F:56
He-E 701.05	RSA 161-F:43, RSA 161-F:46; RSA 161-F:55
He-E 701.06	RSA 161-F:46; RSA 161-F:55; RSA 161-F:56
He-E 701.07	RSA 161-F:46, II; RSA 161-F:51, 53, 55, 56
He-E 701.08	RSA 161-F:55
He-E 701.09	RSA 161-F:49, I(c); RSA 161-F:49, II
He-E 701.10	RSA 161-F:55
He-E 701.11	RSA 161-F:49, II; RSA 161-F:55
He-E 701.12 – 701.13	RSA 161-F:55
He-E 701.14	RSA 161-F:55
He-E 701.15	RSA 161-F:49, II, IV, V
He-E 701.16	RSA 161-F:51, I; RSA 161-F:42
He-E 701.17	RSA 161-F:51; RSA 161-F:42; RSA 161-F:43, I
He-E 701.18 – 701.19	RSA 161-F:52; RSA 161-F:55
He-E 701.20 – 701.21	RSA 161-F:57; RSA 161-F: 55

He-E 701.22	RSA 161-F:49
He-E 701.23	RSA 161-F:49, IX; RSA 161-F:55