

**Traumatic Brain Injury Services Coordinating Council (TBISCC)  
Meeting Minutes  
September 26, 2018; 10:30 am – 12:30 pm  
One Commerce Plaza, 99 Washington Avenue, Albany, NY  
16th Floor, Conference Room 1613**

| Topic  | Discussion  | Action/Next Steps/Who/When |
|--|---|----------------------------|
| <b>Attendance</b>  | <p><b>Council Members Present:</b> Paul Novak (Sunnyview Rehabilitation Hospital); Nina Baumbach (OPWDD); Michael Davison (Vice Chair); Brent Feuz; Michael Kaplen (on phone); Cliff Hymowitz; Jennifer Semonite (NYSED); Earl Schmidt (TPS); Ann Marie Calabrese (Victims Services)</p> <p><b>Council Members Absent:</b> Dominick Raffio (Chair); Crystal Collins (NYS Justice Center); Megan Clothier; Kenneth Ingenito; Meredith Klein; Maxine Smalling (OMH); Dominick Raffio; Joseph Vollaro; Kitty Gelberg (NYSDOH)</p> <p><b>DOH Staff:</b> Maribeth Gnozzio; Teri Schmidt; Anna Ko</p>   |                            |
| <b>Welcome and Introductions</b>                             | <p><b>Dominick Raffio</b>, Chair, not present at the meeting. E-mail received on September 26, 2018 at 8:31 am advising The Council of intent to step down from being Chairperson and membership on the TBISCC.</p> <p>The meeting began at 10:30 am.</p> <p>Confirmed there was not sufficient membership at this meeting to meet the quorum.</p> <p>Meeting agenda is not approved by NYSDOH, it is sent by the Chair and approved by the Governor's office. Next four meetings have been scheduled. The dates will be resent to the group along with an updated Member list per Council request.</p>   |                            |
| <b>Review and Approval of 4/24/18 TBISCC Meeting Minutes</b> | <p>Quorum not met. Meeting minutes of the April 24, 2018 TBISCC meeting were not reviewed.</p>  |                            |
| <b>Waiver Updates</b>  | <p><b>Maribeth Gnozzio</b>, Project Director, Home and Community-Based Waivers, Bureau of Community Integration and Alzheimer's Disease</p> <p><b>M. Gnozzio</b> presented on updates to the TBI and NHTD Waivers. <b>David Hoffman</b>, DPS.CCE, Director, NYSDOH, Bureau of Community Integration and Alzheimer's Disease has retired. The Department has not hired a replacement, TBISCC will need a new NYSDOH member of the Council. TBI Waiver currently has 3,135 participants; NYC region has the largest population and Capital region is the second largest. Approximately 870 in the housing program. NHTD Waiver currently has approximately 2,460 participants; Adirondack region has the largest population. Approximately 500 in</p> |                            |

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|  | <p>the housing program. Olmstead is another housing resource; however, their funding is running low. NHTD Waiver application was approved by the Centers for Medicare &amp; Medicaid Services (CMS) effective July 1, 2018. The Department is working on amendments to both the NHTD and TBI Waiver applications regarding service limits and provider qualifications since the move to Managed Care (MC) has been extended. Upon audit the most citations are provider qualifications. The Department is struggling with Conflict of Interest (COI); full compliance is expected by January 1, 2019 however DOH is seeking an extension to 2022 and amending the Corrective Action Plan (CAP) to be submitted to CMS. <b>M. Davison</b> commented that if agencies were to stop providing Service Coordination (SC) there are not a lot of other providers to pick up the caseloads, leaving participants with no SC's. <b>M. Gnozzio</b> responded that CMS is aware of the provider capacity issue. The Department continues to work with CMS on numerous issues (staff qualifications, rates, LHCSA Moratorium, provider capacity especially in rural areas, minimum wage requirements and grandfathering of staff). <b>M. Davison</b> asked what a rural exemption would be? <b>M. Gnozzio</b> responded that based on the NYS Public Health Law definition of a rural area there would be forty-four (44) counties that would qualify for a rural exemption. There is at least one (1) county in each region that would not qualify and all the downstate counties would not qualify. The Department received COI Compliance Implementation Plan's (COI CIP) from each provider agency to survey the number of participants they are serving and the number of staff employed to get an idea of what issues NYSDOH will have in terms of capacity. <b>M. Gnozzio</b> explained that the entity who develops the plan of care cannot also dictate the provision of services because that agency would benefit from the money received for providing those services. There cannot be a fiduciary interest or steering of business. The Federal regulation started to be discussed in 2012 and was approved in 2014. If the Waivers moved to MC there would not have been a conflict. <b>M. Gnozzio</b> reported the Request for Application (RFA) for the Regional Resource Development Center's (RRDC's) has been posted. The Department will execute the new contracts after the new year. <b>M. Gnozzio</b> reported on the TBI Alternate Route process for the UAS-NY. Approximately 83% of participants scored Level of Care (LOC) on their first UAS-NY and 92% of participants scored LOC on their second UAS-NY; a total of 2,700 assessments have been completed; only 2% of Alternate Route participants did not meet LOC.</p> <p><b>Handouts:</b> TBI Waiver Initiatives and RRDC Contact List</p> |  |
| <p><b>Quorum Requirement for Board/Council Members</b></p> | <p><b>Diana Yang</b>, Senior Attorney, Division of Legal Affairs</p> <p><b>D. Yang</b> reported that The Department has over one-hundred (100) Boards and Councils. The purpose of the TBISCC is advisement to provide guidance to NYSDOH. In 2007 there was an Executive Order stating the meeting must be webcast to meet a quorum if members are not physically present. Then the law changed to specifically require video conferencing. A quorum is a majority of the Council; divide the total number of members (19) in half and add one (1); for the TBISCC quorum is 11 members in-person or via video conference. <b>D. Yang</b> explained that Council members may call in to the meeting to be part of the discussion but cannot vote. Without a quorum there should not be a</p>   |  |

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|  | <p>meeting at all; except for training/discussion purposes and anything discussed without a quorum should be discussed again at the next meeting so that all members can partake. <b>M. Gnozzio</b> reported The Department attempted to arrange video conferencing but because of NYSDOH firewalls it would not work. <b>C. Hymowitz</b> asked if a member could be kicked off the Council for lack of attendance? <b>D. Yang</b> reported that Public Office Law, Section 33 states after missing three (3) meetings a member can be deemed removable due to lack of attendance. <b>M. Kaplen</b> asked if it is appropriate for the DOH Council representative to vote on an issue regarding the state? <b>D. Yang</b> responded that it is up to the state representative to recuse themselves. If the representative does not recuse themselves, the Council can vote to request to recuse that person. <b>E. Schmidt</b> asked if a Council members appointment is expired, can that person still attend the meeting and vote? <b>D. Yang</b> responded yes, the law states the member can be in "Hold Over Status" until reappointed or replaced. <b>M. Kaplen</b> suggested the Council explore sites throughout the state to convene and attend via video conferencing. <b>Anne Marie Todd</b> commented that she sent the last Council meeting video to all members and no one responded.</p> |  |
| <p><b>Repatriation Subcommittee Update and Review of Recommendations</b></p> | <p><b>M. Gnozzio</b> provided Council members with the NYS TBISCC Repatriation Committee: Repatriation Community Transition Proposal – August 28, 2018 DRAFT to be discussed at the next meeting due to not having a quorum.</p>  |  |
| <p><b>TBISCC Member/Guest Updates</b></p>                                    | <p><b>Nina Baumbach</b>, NYS Office for People with Developmental Disabilities (OPWDD): Have been working with kids who are transitioning from schools. Since the Community Care Organization (CCO) selection form went live on September 30<sup>th</sup>, 97% of individuals have plans chosen and 99,287 individuals provided consent to enroll in a CCO.</p> <p><b>Jennifer Semonite</b>, NYSED: No updates to report.</p> <p><b>Anne Marie Calabrese</b>, NYS Office of Victim Services (OVS): Coordinating housing for victims of domestic violence. #MeToo Movement against sexual harassment and sexual assault. <b>M. Gnozzio</b> asked whether there has been an increase in reporting of incidents since the #MeToo Movement. <b>A. Calabrese</b> responded not to my knowledge.</p> <p><b>Earl Schmidt</b>, Public Representative, TPS: The Department of Veterans Affairs (VA) is amending policy on how they evaluate/examine TBI in veterans and re-evaluating those who were not properly evaluated in the previously. The Office of Mental Health (OMH) is in each county and working on a peer-to-peer program.</p>  |  |
| <p><b>Adjournment</b></p>  | <p>The September 26, 2018 TBISCC meeting ended at 12:30 pm.</p>   |  |

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