

TBI Council By-Laws
Adopted on September 30, 2021

**New York State
Traumatic Brain Injury Services Coordinating Council**

Bylaws

ARTICLE I: NAME AND PURPOSE

A. The name of this body shall be the Traumatic Brain Injury Services Coordinating Council (Council). This Advisory Council was established pursuant to Chapter 196 of the Laws of 1994 and is cited in the Public Health Law (PHL) as Article 27-CC, sections 2740-2744.

B. Purpose and Responsibilities –

In recognition of the intent of New York State to continue to promote the health, safety and welfare of all the citizens of this state, the Department of Health shall develop, promote and encourage quality community-based health care, educational, residential, vocational, rehabilitation, family support and other essential services for persons with traumatic brain injury and their families.

The Council is charged with recommending to the Department long range objectives, goals and priorities. It shall also provide advice on the planning, coordination and development of services needed to meet the needs of persons with traumatic brain injury and their families.

ARTICLE II: MEMBERSHIP AND OFFICERS

A. Membership –

1. The Council shall consist of seventeen (17) persons. Non-ex officio members on the Council appointed by the Governor, Senate, and Assembly shall serve for three (3) year terms and may be re-appointed upon the completion of their term. All appointments shall be made pursuant to PHL section 2744.

2. The Council shall consist of the following persons or their designees: the Commissioners of Health, People with Developmental Disabilities, Mental Health, Education, Alcoholism and Substance Abuse Services, and the Executive Director of the Justice Center for the Protection of People with Special Needs.

3. In addition, the Council shall consist of the following persons: five persons appointed by the Governor, three of whom shall be persons with traumatic brain injury and two of whom shall be representative of the public and have demonstrated expertise and interest in traumatic brain injury; two persons appointed by the Temporary President of the Senate, one of whom shall be a

person with traumatic brain injury and one of whom shall be representative of the public and have a demonstrated expertise and interest in traumatic brain injury; two persons appointed by the Speaker of the Assembly, one of whom shall be a person with traumatic brain injury and one of whom shall be representative of the public and have demonstrated expertise and interest in traumatic brain injury; one person appointed by the Minority Leader of the Senate who shall be a person with traumatic brain injury or be representative of the public and have a demonstrated expertise and interest in traumatic brain injury; and one person appointed by the Minority Leader of the Assembly who shall be a person with traumatic brain injury or be representative of the public and have a demonstrated expertise and interest in traumatic brain injury.

4. Members appointed by virtue of their office (ex officio) may designate an alternate representative to attend Council meeting and/or its Committees when a situation dictates the member being absent. The alternate shall be duly registered by the Council as an alternate and will enjoy all rights, privileges and responsibilities of the member. Each state agency member shall have one (1) vote at meetings of the full Council and Standing Committees.
5. Election of officers will be held biennially and will be conducted through either a written ballot, a ballot that is transmitted electronically, or during the course of an electronically transmitted virtual meeting.

B. Chair -

1. The Council Chair shall be elected by the full Council from among the non-state agency members and shall serve for a term of two (2) years. The term shall run from June 1 – May 31 for two years.
2. The Council Chair shall appoint a Vice-Chair from among the non-state agency members, subject to the approval of the Council, who shall serve a term of two (2) years.
3. The duties and responsibilities of the Chair shall include:
 - (a) promoting leadership and implementation of the Council's mission.
 - (b) assuring that Council members carry out the mission, purposes, objectives and requirements of the Council as specified in P.L. 104-166, and Chapter 196 of the Laws of 1994, (Article 27-cc of the Public Health Law).
 - (c) presiding at all meetings of the Council.
 - (d) appointing committee members, chairs of all committees, task forces and ad hoc groups and appointing the Vice-Chair.
 - (e) outlining the specific charges and responsibilities of committees and other groups.

(f) assuring that appropriate communications are coordinated between governmental bodies, public and private agencies, consumers, Council members and staff.

(g) serving as a non-voting ex officio member of all committees, task forces, and ad hoc groups.

(h) assuring that appropriate consumer representation of persons with traumatic brain injury and their families is represented in the activities of this Council.

4. Duties of the Vice-Chair - It shall be the duty of the Vice-Chair of the Council to preside in the absence of the Chair of the Council at all meetings of the Council, and to perform such duties as may be requested by the Chair.

ARTICLE III: COUNCIL COMMITTEES

The Council shall establish a Concussion Management Advisory Committee and may establish ad hoc committees to perform functions that can assist and guide the Council in its stated purposes.

A. Concussion Management Advisory Committee

1. Pursuant to PHL section 2744(4), within the Council there shall be established a Concussion Management Advisory Committee. Such Advisory Committee shall develop recommendations specific to concussion management, academic scholarship, and public awareness for submission to the Council for consideration.

2. The Advisory Committee shall consist of members appointed from the membership of the Council by a majority vote of the Council. Additional Advisory Committee members may be appointed by the commissioner that have demonstrated experience with or expertise in one of the following areas: public health expertise related to mild traumatic brain injuries and concussions, academic research in the area of traumatic brain injuries and concussion management, and public awareness experience related to the recognition of mild traumatic brain injuries and concussions. Advisory Committee membership shall not exceed twelve members.

3. The Advisory Committee may consult with a member or members of the public who have demonstrated expertise and interest in mild traumatic brain injuries and concussions.

4. The recommendations of the advisory committee shall include, but not be limited to:

(a) methods to raise public awareness of mild traumatic brain injuries and concussions;

(b) the development of outreach services to provide coordinated information regarding the recognition and management of mild traumatic brain injuries and concussions; and

- (c) the development of a clearinghouse of academic research and scientific findings related to the recognition, management, and treatment of mild traumatic injuries and concussions.

B. Ad Hoc Committees

1. Ad hoc committees may be established as necessary to perform activities undertaken by the Council to further the stated purposes and goals of such Council. The Council Chair shall appoint the members to the ad hoc committee. A Council member shall be appointed by the Council Chair to serve as the ad hoc committee chair for a term of two (2) years. The composition of each ad hoc committee shall, to the maximum extent feasible, be reflective of the composition of the full Council.
2. Membership of such committee should include, but need not be limited to, members of the Council.
3. Each ad hoc committee chair shall report on their work and activities to the full Council at all regularly scheduled meetings for discussion and final determination.
4. The Council may appoint such ad hoc committees to provide technical and expert assistance to the Council for such periods of operation as may be required.

ARTICLE IV: MEETINGS

A. Meeting Requirements and Minutes

1. The Council shall conduct regular meetings at the call of the Chairperson but not less than three (3) times in each calendar year.
2. Special meetings shall be held at the written or electronically transmitted request to the Council Chairperson by at least six (6) members of the Council. These special meetings shall be held within thirty (30) business days of the receipt of such request, or upon a mutually agreed upon time.
3. All Council meetings require at least ten (10) days written or electronically transmitted notice from Department staff and shall be open to the public except that the Council may, by a majority vote, set or schedule executive sessions in accordance with the requirements of Article 7 of the New York State Public Officers Law.
4. The agenda for each meeting shall be developed by the Chair in consultation with the Department.
5. A written record of all meetings shall be kept. A copy of this record shall be transmitted to members within 30 business days or as soon as practicable thereafter. The order of business at the subsequent Council meeting shall include approval of this record.

B. Quorum

Pursuant to the General Construction Law section 41, each Council meeting requires that a quorum of members must be present at a duly constituted meeting with proper notice given to conduct public business. Under General Construction Law section 41, a quorum consists of a majority of the whole number of members who are in each other's presence or by video-conferencing. The quorum for the Council whose total membership is seventeen (17) members, shall be a minimum of nine (9) members to establish a quorum.

In the absence of a quorum, any meeting may be adjourned by a vote of the majority of the members of the Council, but no other official business may be transacted. The members present at a duly called or held meeting at which a quorum was present may continue to do routine business not requiring a vote (other than adjournment) should a quorum no longer be maintained in the course of the meeting

C. Attendance

As each meeting of the Council requires a quorum to conduct public business, in accepting an appointment to the Council, members commit themselves to regular attendance at the scheduled meetings. Meeting dates shall be scheduled sufficiently in advance to allow for requisite planning and scheduling for attendance by Council members. Members unable to attend a meeting must notify the Commissioner or his or her designee prior to the meeting. Substitute or proxy members, who are not ex officio members, are not permitted to vote at Council meetings.

It is expected that each member should attend a majority of scheduled Council meetings within the calendar year. Failure to attend a majority of meetings may result in removal from the Council. New members shall be appointed to fill any vacancies in accordance with PHL section 2744 (1) and these Bylaws.

D. Conduct of Meetings

Council meetings shall be conducted by the Council Chair and according to the current edition of *Robert's Rules of Order Newly Revised*. Every member of the Council has one vote, and voting shall take place while the meeting is convened. The Department, according to law, shall provide video or audio access to all Council meetings through the Department's website. The Council shall not present its recommendations as the official policy of the State as it is an Advisory Council. Confidential financial information shall only be presented or discussed during executive session. Members shall not release information that is made available to them by virtue of their participation on the Council.

E. Public Comment

1. With prior notice to the Council and the Department, interested parties may be allowed a reasonable opportunity to make an oral presentation to the Council on items related to a specific agenda item or matters of general interest to the Council and to submit written comments, testimony, or information.

2. Individuals interested in providing public comments to the Council may submit a request to the Health Department at least five (5) days in advance of a meeting to be added to the agenda. Individuals granted permission to address the Council shall be notified of their inclusion on the public comment list of speakers when the list is deemed complete. All written testimony, public comment, or information shall be submitted to the Council at least two (2) business days prior to the Council meeting, or at a later date, in the discretion of the Chair.

3. Before a request to provide public comment is granted, individuals shall be required to divulge any financial relationships with any industry or interest group which may influence their comments. Before an individual is permitted to provide public comment, the Chair shall require that the individual attest as to the accuracy of the information on the financial relationships provided.

4. The public comment period shall be at the end of each meeting or scheduled during the segment of the meeting that is related to the subject matter that is being discussed by the Council according to the meeting agenda. Up to ninety minutes may be devoted to public comments on issues or matters that are before the Council. Such public comments portion of the Council meeting may be extended upon an affirmative vote of the Council to extend such public comment period. If multiple speakers are proposing to address the same issue with the same point of view, and there is insufficient time to include all speakers, an individual or individuals may be asked to provide a written statement, testimony, or information.

ARTICLE V: CODE OF ETHICS and FINANCIAL DISCLOSURE

A. Code of Ethics

Pursuant to Public Officers Law 74, no Council member should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest. Members should also avoid the appearance of a conflict of interest. Members must comply with the following Code of Ethics consistent with the standards outlined in Public Officers Law 74 during their term of service on the Council. At a minimum, such members shall not:

1. Accept employment which may impair his or her independence of judgment in the exercise of his or her official Council duties.

2. Accept employment or engage in any business or professional activity which would require him or her to disclose confidential information which he or she has gained because of his or her official duties on the Council.

3. Disclose confidential information acquired by him or her in the course of his or her Council duties or use such information to further his or her personal interests.

4. Use or attempt to use his or her official Council position to secure unwarranted privileges or exemptions for himself or herself or others, including but not limited to, the misappropriation to himself, herself or to others of the property, services or other resources of the State for private business or other compensated nongovernmental purposes.

5. Engage in any transaction as representative or agent of the state with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties on the Council.

6. By his or her conduct, give reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his or her favor in the performance of his or her official Council duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

7. Make personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by him or her or which would otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.

8. A member should endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

9. No Council member nor any firm or association of which such person is a member nor any corporation where a substantial portion of stock is owned or controlled directly or indirectly by such member, should sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the state agency in which such Council member serves or is employed.

10. Council members must complete the Departmental Ethics Training for Members of Advisory Boards and Councils within three months of beginning Council service, or within three months of the Ethics Training becoming available. In addition, such Council members must sign a statement, under oath, that they will not intentionally violate any of the conflict of interest or prohibited financial interest provisions provided for in Public Officers Law 74 and Article V of these Bylaws, as it relates to their activities associated with their duties and work with regard to the Council.

Members must also comply with the following Ethics Standards not included in Public Officers Law 74:

1. Council members must report all legislative and or lobbying contacts regarding any issue or decision under the purview of the Council or from an agent or representative of an entity directly affected by Council activity and employment status changes to the Commissioner or his or her designee to avoid any actual conflicts of interest or the appearance of any conflicts of interest.

2. Council members may consult with medical/clinical peers for their professional expertise on an as needed basis, however, members must report to the Chair any contacts with private industry intended to influence the member in carrying out his or her duties on the Council or intended to influence a decision of the Council. Failure to do so may result in removal from the Council.

Members should address questions regarding the Code of Ethics and Financial Disclosure to Department staff and to the Department's Ethics Officer.

B. Financial Conflicts of Interest

During the period of time of Council membership, no Council member may have a prohibited financial interest with any entity that has a direct interest in matters before the Council. Such financial interests shall include, but not be limited to, the kinds of financial interests or conflict of interest relationships that are specified in Public Officers Law 74 and by Article V of these Bylaws. Members appointed to the Council agree to adhere to and follow the advisory ethics and financial disclosure opinions, directives, determinations, and decisions made and rendered by the Department of Health, made in consultation with the New York State Joint Commission on Public Ethics, as it relates to their activities associated with their duties and work with regards to the Council.

Council members must disclose any "financial interest" or "professional or personal affiliations" with any entity or person(s) that may have a direct interest in matters before the Council.

The Chair, in consultation with the Department, reserves the right to prohibit the attendance of a member at a Council meeting or a portion thereof, when he or she concludes that such attendance would create a conflict of interest or the appearance of a conflict of interest.

C. Financial Disclosures and Recusal Requirements

Prior to appointment to the Council, and annually thereafter, members are required to disclose any interest, financial or otherwise, held by the member, his or her spouse/partner and minor children, in any entity that may have a direct interest in matters before the Council.

1. If a conflict of interest or appearance of a conflict of interest arises that is not due to a financial interest held by a member, the member must recuse him or herself from participating in the relevant presentation, discussion and the vote. The Chair, in consultation with the Department, have the authority to determine whether and when recusal is required, or whether the conflict of interest can be avoided only by divestiture or resignation from the Council.

2. A conflict of interest caused by a financial interest held by a member may not be remedied by recusal. The member must either divest himself or herself of the conflicting financial interest within a reasonable time set by the Chair, in consultation with the Department, or resign from the Council. If a member intends to divest himself or herself of such interest, but has not done so before the next Council meeting, the member may be permitted to recuse himself or herself entirely from one meeting.

3. If a conflicting financial interest not reported by a member has been reported by a third party, the member may provide information or evidence to the Chair, who shall determine, in consultation with the Department, and consistent with these Bylaws, whether recusal, divestiture or resignation is required.

4. Failure to Disclose:

(a) The failure of a member to accurately report a conflicting financial interest, and/or, to recuse himself or herself from a discussion, vote, or meeting when a conflict of interest exists, may result in removal from the Council.

(b) The Chair, in consultation with the Department, shall determine whether the member's failure to report a conflicting interest necessitates recusal or removal from the Council.

(c) A member's failure to resign or divest himself or herself of such interest if so directed by the Chair shall result in removal from the Council.

(d) The Council Chair, in consultation with the Department, shall have the authority to determine, consistent with these Bylaws, whether an interest disclosed by a member gives rise to a conflict of interest and, if so, whether it necessitates recusal, divestiture, or a recommendation to the Governor for removal from the Council.

ARTICLE VI: ADMINISTRATION OF THE COUNCIL

A. Resignation

A member may voluntarily resign prior to the completion of their term by notifying the Commissioner, his or her designee, and the Chair within a minimum of 30 days prior to their resignation date.

B. Removal from the Council

A member may be removed from the Council for a knowing and intentional violation of any provision of these Bylaws, or for any other reason at the discretion of the Governor.

C. Vacancies

Vacancies resulting from a Council member's resignation, non-renewal, or the completion of term shall be filled with candidates who meet the requirements of the membership as provided for in PHL section 2744 (1).

D. Reimbursement

Members shall receive no compensation for their services, but shall be entitled to reimbursement for their expenses actually and necessarily incurred in the performance of their duties, including travel expenses. Such travel expenses shall be reimbursed at levels in accordance with NYS approved amounts for travel expenses including transportation, meals, and lodging costs required to attend Council meetings. Council members shall be deemed to be employees of the Department for the purposes of Public Officers Law section 17.

E. Department of Health Staff Support

Administrative support shall be provided to the Council by the Department of Health. Such staff will coordinate and obtain the services of such professional, technical and clerical personnel, consistent with State law, as the Council determines to be necessary to carry out its functions in compliance with State and Federal legislation.

F. Amendments to these Council Bylaws

The Department of Health may propose to the Council amendments to these Bylaws. Amendments to the Bylaws shall be made when recommended by the Council and approved by the Commissioner or his or her designee. All Bylaw amendments must be adopted upon an affirmative vote of at least nine (9) members of the Council, provided that a notice of the

proposed amendments has been presented at the meeting prior to the meeting where such Bylaw amendments are scheduled to be voted upon. A copy of such proposed Bylaw amendment or amendments shall be sent by the Department Program staff to each member of the Counsel at least sixty (60) days prior to the vote to adopt such amendments.

END
TBI Council Bylaws
Adopted 9.30.21