



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES

Margaret M. O'Neill Bldg., Suite 1, Room 311
410 Federal Street
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The Honorable John Carney
Governor

John McNeal
SCPD Director

BRAIN INJURY COMMITTEE DRAFT MINUTES

May 6, 2019 – 2:00 PM
Smyrna Rest Area, Smyrna, DE

16 in attendance of 23 QUORUM PRESENT.

PRESENT:

Tammy Clifton, DOL/DVR, Senior Counselor and BIC Chair (obo Andrea Guest, Director); Christine Applegate, EN Navigator, Bayhealth; Sybil Baker, GACEC (obo Wendy Strauss); Andrew Burdan, Brain Injury Advocate/Support Group; Tiffany Taylor (obo George DelFarno, Survivor and Director, Post-Acute Medical Center (Dover); Nicholas A. Duko, Program Mgr., BCBS Highmark Health Options; Brian Eng, Esquire, Community Legal Aid Society, Inc., Disabilities Law Program; Katie Freeman, Psychologist, DSCYF/DPBHS, (obo Robert Dunleavy LCSW); Miguel Marcos, TCM Program Manager, Veterans Affairs; Sue Gamel-McCormick, APRN, DHSS/DMS/Birth To Three; Kristin Harvey, DDC (obo Rick Kosmalski); Sharon Lyons, BIAD, BIC Vice-Chair; Christina Miller, Insurance Investigator Supervisor, Department of Insurance; Nancy Ranalli, Director of Community Outreach, Easterseals; Dr. Ron Sarg, DCVA/MOAA; Megan Witman, Director of Therapy Operations, Encompass Health; and Dee Rivard, SCPD Support.

ABSENT:

Linda Brittingham, Christiana Care Health System (CCHS); Thomas Cairo, Bayhealth Neurosurgery (obo Christine Applegate); Dr. Charles Jin, Program Director, DSAMH, (obo Elizabeth Romero, Director); Dale Matusevich, DOE, ECE, Education Associate, Transition Services (obo Mary Ann Mieczkowski); Karen McGloughlin, Director of Women's Health (obo Dr. Karyl Rattay, Director); John McNeal, Survivor and Director SCPD; Ann Phillips, Parent of a survivor; Dorothy Prior, Psychologist, (obo Marie Nonnemacher); Jamila Waigwa, DHSS/DSAAPD;

GUESTS: (Not able to vote or count toward quorum)

IN-PERSON – Carey Swartzentruber, TBI Survivor;

TELECONFERENCE PARTICIPANTS: N/A

CALL TO ORDER

Tammy Clifton called the meeting to order at 2:05 p.m., after a quorum of members arrived. She thanked everyone for attending and requested members to introduce themselves.

ADDITIONS/DELETIONS TO THE AGENDA

Tammy inquired if there were any additions or deletions to the agenda and hearing none she called for approval of the agenda. Ron Sarg made a motion to approve the agenda that Christine Applegate seconded. Committee members in attendance unanimously approved the agenda.

APPROVAL OF PREVIOUS MEETING'S MINUTES

Tammy inquired if everyone had sufficient time to review the minutes of our last meeting on March 4 and whether or not there were any additions, deletions, or corrections to the minutes. Kristin Harvey requested a change to the meeting location from the 04/01 minutes to correctly show that the BIC met at the Smyrna Rest Area and not the Smyrna State Service Center. Kristin also provided an update on page 6 under Survivor Input asking to revise her comments and provided Dee a copy of her updated remarks.

- Ron Sarg made a motion to approve the minutes as amended that Sharon Lyons seconded. The voting committee members in attendance unanimously approved the minutes as amended.

SURVIVOR INPUT

Carey Schwartentruber, a TBI Survivor attended today's meeting and provided members with a brief update of the injuries incurred as a result of his being hit 3 times by a moving airplane prop that he was working on in 2003. Carey stated that after having worked for the airlines for 13 years prior to his TBI, he is no longer able to do that work.

- Even though Carey's physicians cleared him for work he still has limitation due to his short-term memory loss, which makes it difficult for him to find a job. Carey commented that he attended the 2019 Brain Injury Conference and really enjoyed hearing from all of the presenters.
- Tammy Clifton told Carey that the committee appreciates hearing whether or not survivors experienced any service issues or problems obtaining services since their TBI. She told Carey that he is welcome to attend the BIC meetings anytime. She suggested that he write down his thoughts as they occur and return to speak again sometime in the future. Tammy thanked Carey for sharing his experience with the

committee as they are exactly what the committee needs to hear in order to identify problems with service delivery. The BIC is comprised of a variety of service providers, state agency representatives, and rehabilitation providers that are able to take service delivery problems back to their facilities in order to review their policies and practices. We need to hear this type of information.

- Carey expressed that he would like to see a more streamlined system between physicians, patients, and healthcare insurance providers.

NEW BUSINESS

- **TBI Policy Review**

- Dee provided members numbered copies of the confidential internal TBI Fund Policy for their review and approval and stated that members needed to return all documents prior to leaving today.
- Tammy gave committee members 15 minutes to review the document in order to facilitate a discussion of their review.
- Members felt that if the TBI Fund Policy listed "Physician's Assistant" as one of the licensed medical providers that it should also list "Nurse Practitioner."
- Committee members discussed whether or not to include medical dentistry as a covered service under the TBI Fund. One member suggested changing the phrase "Medical Dentistry" to "Preventative Dentistry" since Medicaid already covers tooth restoration for adults. A discussion ensued as to whether or not the TBI Fund Policy should require the need for a relationship between a patients' TBI and their dental or oral environment needs.
 - What specifically is covered under Medical Dentistry by Medicaid?
 - Delaware Medicaid does not cover Medical Dentistry at this time.
 - Yes, the patient's dental needs must be directly related to their TBI. E.g. A patient suffers from seizures as a direct result of their TBI and during a seizure, the applicant chips or breaks a tooth. – OR -- An applicant suffers from balance issues as a result of their TBI and falls causing damage to their teeth. Both of these circumstances will result in funding for tooth repair since the damage was directly related to their TBI.
- Committee members discussed the verbiage in "Section III. Eligibility, A. Qualifying TBI" and expressed concern about who determined that "A traumatic brain injury shall be of sufficient severity to produce 'partial or total disability' as a result of impaired cognitive ability or physical function." and how it is determined. *NOTE*: This phrase was included at Legislative inception of the TBI Fund (approved by Brian Hartman and Committee members) as a way to ensure that persons benefitting from the fund are those with the most need. E.g. A concussion is a TBI; however, a person

sustaining a mild concussion does not typically suffer from permanent, lasting, partial or total impairment.

- Partial disability is the result of an injury which permanently impairs a person's ability to function, but still allows the person to work or participate in other activities.
- Total disabilities render the disabled person unable to work in their "own occupation" and also unable to do any occupation, considering their training, education, experience and their financial station in life.
- Committee members discussed Section III of the TBI Fund Policy noting the need to define the term "full-time Delaware resident" and agreed to use the definition used by the Delaware Division of Revenue. *NOTE*: The Delaware Division of Revenue definition references qualifying as a Delaware voter.
 - A Delaware Resident is an individual who is a citizen of the United States, who must have qualified as a registered voter in Delaware and is either:
 - domiciled in the State of Delaware for any part of the taxable year; or
 - Maintains a place of abode in this State and spends more than 183 days of the taxable year in this State.
 - A domicile is the place an individual intends to be his/her permanent home; a place to which he/she intends to return whenever he/she may be absent. An individual can have only one domicile. A domicile, once established, continues until the individual moves to a new location and exhibits a bona fide intention of making it his or her permanent home.
 - Full-Time Students with a legal residence in another state remain legal residents of that state unless they exhibit intentions to make Delaware their permanent residence.
 - *NOTE*: Foreign Travelers – If you were out of the United States for at least 495 days in the last 18 consecutive months and (at the same time) you did not maintain a permanent place of abode in this State at which you, your spouse, your children or your parents were present for more than 45 days, you are not considered a resident of this State.
 - *The above NOTE does not apply to members of the Armed Forces, employees of the United States, its agencies, or instrumentalities.
- On page 5 of the TBI Fund Policy under "Section IV. Required Supporting Documentation, Number 4" committee members felt that it is important to define the phrase 'medically necessary'.
 - According to [Medicare.gov](#), "medically necessary" is defined as "health-care services or supplies needed to prevent, diagnose, or treat an illness, injury, condition, disease, or its symptoms and that meet accepted

standards of medicine.” In any of those circumstances, if your condition produces debilitating symptoms or side effects, then it is also considered medically necessary to treat those.

- Health care services or supplies needed to diagnose or treat an illness, injury, condition, disease or its symptoms and that meet accepted standards of medicine.
- Medical necessity is a United States legal doctrine, related to activities which may be justified as reasonable, necessary, and/or appropriate, based on evidence-based clinical standards of care.
- On page 8 of the TBI Fund Policy, committee members recommended changing the sentence “The TBI Fund Program Manager should maintain an applicant spreadsheet showing the status of current applications in addition to a program performance report listing the total number of applications submitted, approved, in-progress, on-hold, funded closed, denied/not-funded, withdrawn and closed” to “The TBI Fund Program Administrator shall maintain a spreadsheet or report showing the status of current applications and program performance showing services provided and benefits’ derived from recipients of TBI Funds.”
- Brian Eng suggested adding all of the definitions under “Section II. Definition” which currently includes only the definition of a TBI by changing that section to read “Section II. Definitions.” Committee members agreed that this was an excellent idea and allowed for inclusion of any future definitions as necessary.

OLD BUSINESS

FOLLOW-UP ITEMS

- **TBI Fund Application Review Committee Update**

- Nancy Ranalli provided members with an update on the TBI Fund activities stating that the committee was able to obligate all but \$9,000 of the 2018 funds, On July 1, 2019 the TBI Fund will receive the FY 20 funds.
- During today's TBI Fund meeting, committee members reviewed 5 application packages that different parts of each package required additional information.
- Nancy advised that the TBI Fund Committee wants to make a significant dent in next year's funds since we want to continue to being able to receive and use these funds for many years. In order to do this, we need every BIC member to help get the word out.
- Dee told members that the TBI Fund is going to lose \$5,000 of funding obligated under 2017 funds for a client due to Medicaid paying for the

requested services and it being too late to move these funds for another project.

- **Data Development Subcommittee (DDS) Update**

- Nicholas Duko provided an update on the DDS. Nicholas advised that the subcommittee met with Randy Farmer, COO and Terri Lynn Palmer, Project Manager of Delaware Health Information Network (DHIN) and received positive feedback.
- DHIN representatives did not believe that DDS will encounter any issues obtaining the requested information. However, they will need to figure out the funding source. Since the SCPD/BIC is under the Department of Safety & Homeland Security (DSHS) the DHIN does not have an existing interagency agreement. The DHIN may have to create one. The DDS members are waiting to hear back from DHIN on this issue.
- The DDS was only requesting 13 months of data initially; however, the DHIN representatives both suggested that the DDS request 25 months of data initially.
- The first phase of this project's data request is limited to claims data. However, once DHIN resolves issues with providing access for the clinical data the DDS is anticipating receiving a lot more data. Ideally the DDS is hoping to provide the BIC with clinical and claims data combined.
- Nicholas advised that the DDS members are looking forward to hearing back the DHIN within three weeks.
- The DHIN representatives also suggested the possibility of getting the State Council for Persons with Disabilities (SCPD)/BIC set up with a web portal to use interactively with the data. The DDS members were pretty excited to hear all this. Even if there is a cost the DHIN representatives do not think that it will be too cost prohibitive.
- Sharon advised that she receives all of the brain injury calls from the Brain Injury Association of Delaware (BIAD) and that she maintained a list of the caller information.
- Ron Sarg reminded everyone of the TBI Database Registry requested by the Commission of Veterans Affairs during their recommended legislation list being pursued this session. He advised that the Joint Military Veterans Affairs Committee met with legislators providing copies of their 8 page document for dissemination to all legislators. He advised that he also spoke with Lt. Governor Bethany Hall-Long providing her with examples of a couple of veterans' plight. He stated that she and the legislators that they spoke with are very concerned about the TBI Registry issue. Representative Earle Jacques is working on a database that interested providers would be entitled to view but will have to temper their request.

- **Prevention and Outreach Subcommittee Development**

- The new Subcommittee members have not held their first meeting yet or done anything formally as a group.
- In response to a suggestion to hold the meetings via teleconference, Dee reminded members that she must post all meetings on the Statewide Public Meeting Calendar since the BIC is a public body.
- This subcommittee is still waiting to hear back from Director John McNeal as to a date for the Prevention & Outreach/BIC retreat. ****ACTION ITEM****
- A discussion followed on possible meeting locations and available conference rooms in which to host the meetings including the Commission of Veterans Affairs Office, Commissioner's Conference Room; Post-Acute Medical Rehabilitation Hospital; Eden Hill Medical Center; Delaware Hospice, Dover Public Library, and the DSP Troop 3 Community Room in Camden.
- Nancy mentioned her inquiry relating to recognizing concussions at non-DIAA athletic events, i.e. soccer. She wanted to clarify whether or not they ensure that a protocol is in place to restrict the player from returning to the field until examined by a physician even if the parents push back on the coaches because they want their child to play. She also inquired about soccer referees getting concussion training. Nancy read the email response from Bob Jarvis:

"U.S. Soccer has included concussion training for all referees for the past several years. I also believe that they've required that for the coaches for the same time frame. This year, they're rolling out nationally training provided by the U.S. Center for SafeSport, which will upgrade the prior program and require online certification of the modules. (I've done all three.)

As for the issues with parents (and coaches and players, for that matter), when a referee observes what he/she believes are concussion symptoms, the player is required to leave the field and may not return until cleared by a qualified person (and the referee will record that name). If the coach sends the player back in without that clearance, the referee will stop the game and require the player to leave, and continue to do so if required.

Over the past several years, I believe all players, coaches and parents (except those just entering soccer) should be aware of the process."

ANNOUNCEMENTS

- Sharon announced that the BIAD Office BIAC moved to 872C Walker Road in Dover. Please make a note of their new address. The BIAD staff are all very pleased to be in their new office.
 - Sharon inquired if there was anyone present who is willing to serve on the BIAD Annual Conference Committee that will start meeting soon. Sharon requested anyone interested to please send her an email stating their interest. Sharon promised to send interested parties a description of the BIAD Conference Committee member responsibilities and a meeting schedule. In response to a question as to how frequently the committee meets, Sharon and Tammy responded that the committee typically meets weekly from 7 - 9 on a Tuesday night. From January of the following year until the conference date it is a necessity to meet more frequently; however, Sharon told everyone that they meet by teleconference. The BIAD has a form they use as a checklist to ensure that they do not forget to cover anything important. Sharon asked for speaker suggestions and advised that she encountered a problem in years past getting CEUs approved due to speakers not returning their speaker packages in a timely manner by the due date.
 - Sharon announced that the BIAD will host a grand opening for their new office later on.
- Brian Eng announced that this is his last Brain Injury Committee meeting because he accepted a new position with the Delaware Department of Justice.
 - Brian announced that Jeff Hysan, a paralegal at the Community Legal Aid Services, Inc. (CLASI) requested to join the BIC in Brian's place and that he is officially the new CLASI representative. Brian shared that Jeff is more detailed oriented than he is and that he is a really good guy.
 - Brian shared that he will be in Dover most of the time now for his new position. It is a new office for a position that has not existed before now.
- Tammy shared that she, Sharon, and Karen met with the Delaware Health Care Commission (DHCC) members at the suggestion of Congresswoman Lisa Blunt Rochester's Grants and Projects Director, Tyrone J. Jones. The DHCC members were not familiar with us at all; however, they seemed very open and interested in taking a look at things. Numerous contacts were made with people who oversee the DHIN and the DHCC members asked Tammy to provide additional information on the composition of the BIC. (E.g. who sits around the table and how long the BIC has been in existence?)
- Kristin Harvey announced that sometime within the coming month the Developmental Disabilities Council (DDC) will post an opening to hire a new Social Services Senior Administrator. Kristin encouraged anyone interested in

the position to apply through the Delaware State Jobs website. She believed that the position will post by June 1. Kristin also shared that the working title for this position is Executive Director.

ADJOURNMENT

- Ron Sarg made a motion to adjourn that Kristin Harvey seconded. Tammy called for discussion and hearing none, called for a vote by committee members present who unanimously approved the motion to adjourn at 3:45 pm.

NEXT MEETING

- The next scheduled Brain Injury Committee meeting is:

Monday, June 3 at 2:00 p.m.,
Smyrna Rest Area Conference Room.

FINAL