

**New York eHealth Collaborative Policy Committee Meeting**  
**November 16, 2022**  
**2 p.m. – 3:30 p.m.**  
**Meeting Notes**

A meeting of the NYeC Policy Committee was held on November 16, 2022. Present via telephone or videoconference were:

*Policy Committee Voting Members*

Art Levin, Chair, Center for Medical Consumers  
Dr. Ram Raju, Health Disparities Consultant  
Dr. Lawrence Brown, START Treatment & Recovery Centers  
Dr. David Cohen, Maimonides Medical Center  
Louann Villani, Ontrak  
Taiymoor Naqi, Hixny  
Steve Allen, HealtheLink  
Alan Cohen, JASA  
Chuck Bell, Consumer Reports

*Other Attendees*

Liana Prosonic, HealtheConnections  
Elizabeth Amato, HealtheConnections  
Dan Porreca, HealtheLink  
Patricia Burandt, HealtheLink  
Todd Rogow, Healthix  
Magdalena Mandziewska, Healthix  
Marlene Bessette, Rochester RHIO  
James Kirkwood, NYS DOH  
Deirdre Depew, NYS DOH  
Ken Wiczerza, NYS DOH  
Chelsea Sack, NYS DOH  
Kate Bliss, NYS DOH  
Michele Warner, NYS DOH  
Meredith Locke, NYS DOH  
Daniel Hallenbeck, NYS DOH  
Molly Finnerty, NYS OMH  
Jessica Eber, NYS OMH  
Tammy Harris, OPWDD  
Meg Vijayan, OPWDD  
Puja Khare, GNYHA  
Leilani Prusky, NYSTEC  
Cindy Sutliff, NYeC  
Alison Bianchi, NYeC  
Sam Roods, NYeC  
Julia Sisti, NYeC

Marina Bluvshiteyn, NYeC  
Bob Belfort, Manatt  
Alex Dworkowitz, Manatt

The meeting was called to order by Mr. Levin at 2 p.m.

## **I. Welcome and Introductions**

Mr. Levin welcomed the Committee members and provided an overview of the agenda and the meeting materials. A motion to approve the previous meeting's minutes was approved.

## **II. Federal and State Updates**

Ms. Bianchi noted that October 6<sup>th</sup> was “data liberation day,” the day on which the definition of electronic health information was expanded under the information blocking rule. She said that the White House had recently announced a social needs coalition related to standards for social determinant of health screening tools.

Ms. Bianchi added that CMS released a request for information related to a national directory of health care providers, and that the information blocking enforcement rule has not been released on time.

## **III. DOH Update**

Mr. Kirkwood said the results of the recent round of certification had been communicated to the QEs, and all QEs are up-to-date under state regulations. He said that the state is working very hard on planning the new 1115 waiver.

## **IV. CBO Roundtable Key Findings**

Dr. Cohen explained that the Committee members would soon receive a document summarizing the key findings from the community-based organization (CBO) roundtable. Dr. Cohen said that the 17 CBO participants had indicated that the need for data was paramount, and they were interested in both medical and social service data. He added that the need for bidirectional exchange was stressed, as well as the importance for data security.

Dr. Brown asked if the CBOs involved were a fair representation of CBOs in the state. Dr. Cohen responded that many of the CBOs were involved in both primary care and behavioral health services, but there was not much representation of smaller CBOs on the roundtable itself. Ms. Sutliff noted NYeC was conducting a survey of smaller CBOs to solicit their input on the topic areas covered in the roundtable discussion.

## V. CBO Policy Revisions

Ms. Sutliff introduced the topic of potential reforms to the SHIN-NY policies to encourage CBO participation. She explained that the state is now in an environment where the CBOs will play a larger role in terms of providing care as part of the new Medicaid 1115 waiver initiative.

Mr. Dworkowitz explained that the current SHIN-NY policies permit disclosures to CBOs that are not covered by HIPAA only with affirmative written consent. He described potential options for revising such a rule, including permitting CBOs to receive protected health information under the “one-to-one exchange” exception as well as the transmittal of patient care alerts that do not contain full clinical data.

Dr. Brown said he was mixed on the question of whether alerts should be sent to CBOs that are not subject to HIPAA. He said that without an increase in funding, the value of alerts to CBOs may not be significant, and there is also a stigma if an alert relates to an opioid use disorder.

Ms. Bessette said that the social determinant of health networks (SDHNs) under the waiver should manage consent, which would mean that individual CBOs will not have to create their own infrastructure.

Mr. Alan Cohen explained that JASA does currently receive alerts, but only for its medical programs, not its social service programs. He agreed that more information is not necessarily better information, but he added that alerts indicating the location of an individual can be valuable to CBOs.

Dr. Cohen said alerts by definition have a limited amount of data with actionable information. Mr. Steve Allen agreed that the proposed consent reforms were a reasonable way to increase participation.

Mr. Dworkowitz provided an overview of the SHIN-NY security requirements related to CBO participation, and he noted that CBOs that are not subject to HIPAA are still required to comply with safeguards under the HIPAA security rule. He outlined several options related to reforming such security requirements.

Ms. Bessette said most security requirements are met within systems like Unite Us. Mr. Rogow said the SHIN-NY is creating an extra burden on CBOs, and that many CBOs receive health information from Unite Us. Dr. Cohen responded that Unite Us has less detailed patient information as compared to the SHIN-NY.

Ms. Sutliff asked: if the SHIN-NY policies were to require “reasonable” security requirements, how would “reasonable” be defined? Mr. Allen noted that the QEs are business associates to covered entities, and they face restrictions under their business associate agreements regarding their ability to disclose PHI to entities that do not comply with HIPAA security requirements.

Dr. Cohen said he did not think the “reasonable” security requirements option was sufficient. Ms. Villani agreed, saying CBOs need specific guidance as to what security requirements need to be followed.

Ms. Sutliff said the decisions related to what SHIN-NY consent and security policies should be changed/adjusted in order to more effectively support CBOs and the 1115 Waiver would be presented and discussed at an out-of-cycle Policy Committee meeting in December – date and time TBD.

## **VI. Utilization Review Proposal**

Ms. Sutliff reminded Committee members that the Committee had approved a reform to the policies to permit utilization review as a Level 1 use, and they now had to agree on specific language. Mr. Dworkowitz explained the proposed language.

Ms. Eber, an ex-officio member of the Policy Committee, asked why the definition of “utilization review” was broader than the definition used in the state insurance law. Ms. Eber said she viewed utilization review as focusing on medical necessity, but the proposed policy language was broader.

Mr. Belfort said that from a HIPAA standpoint the broader definition of utilization review was permissible, since the activities described in that definition consist of health care operations and payment. He said the policy question was whether they want to create a narrow exception for utilization review or a broader exception for payment activities of health plans. Dr. Cohen said the issue is whether they are trying to assist providers or assist plans.

Ms. Sutliff said the Committee would meet again in December to finalize the language.

## **VII. Closing**

Mr. Levin thanked the Committee and adjourned the meeting.