

New York eHealth Collaborative Policy Committee Meeting
February 24, 2021
12 p.m. – 4 p.m.
Meeting Notes

A meeting of the NYeC Policy Committee was held on February 24, 2021. Present via telephone or videoconference were:

Policy Committee Voting Members

Art Levin, Center for Medical Consumers, Chair of Policy Committee
Nance Shatzkin, Bronx RHIO
Steve Allen, HealthLink
Taiymoor Naqi, Hixny
Dr. Raul Vazquez, Urban Family Practice
Dr. Tom Mahoney, Common Ground Health
Dr. David Cohen, Maimonides Medical Center
Dr. John-Paul Mead, Cayuga Medical Associates
Dr. Glenn Martin, Queens Health Network
Lorna Thorpe, NYU Langone
Chuck Bell, Consumer Reports
Alan Cohen, JASA

Other Attendees

Amy Warner, Rochester RHIO
Karen Romano, HealthConnections
James Kirkwood, NYS DOH
Deirdre Depew, NYS DOH
Dan Schiller, NYS DOH
Molly Finnerty, NYS OMH
Carmen Barber, NYS OMH
Tammy Harris, OPWDD
Margaret Vijayan, OPWDD
Laurie Pferr, Office for the Aging
Dr. Alicia Bell, University of Rochester Medical Center
Tom Hallisey, HANYS
Puja Khare, GNYHA
Jill Eisenstein, BOC Representative
Val Grey, NYeC
Cindy Sutliff, NYeC
Zoe Barber, NYeC
Alexandra Fitz Blais, NYeC
Nate Donnelly, NYeC
Elizabeth Amato, NYeC
Sam Roods, NYeC
Bob Belfort, Manatt
Alex Dworkowitz, Manatt

The meeting was called to order by Mr. Levin at 12 p.m.

I. Welcome and Introductions

Mr. Levin welcomed the Committee members and provided an overview of the meeting materials. Mr. Levin asked if there were any objections to the prior meeting's minutes and, hearing none, said the minutes were considered approved.

II. Executive Director Update

Ms. Grey explained that NYeC recently had provided comments on a CMS proposed rule regarding APIs and prior authorization. She said that the rule had been finalized in record speed and there is speculation that the rule will be challenged. She also noted that NYeC also was preparing comments on a proposed HIPAA rule.

On the state side, Ms. Grey noted that that the governor's budget had proposed level state funding for the SHIN-NY, but there may be challenges in terms of federal matches. She said she was encouraged by a proposal related to SHIN-NY connectivity on telehealth, and she noted that there is also a proposal for a single statewide SHIN-NY consent form which is consistent with recommendations that the Policy Committee has made in the past.

III. DOH Update

Mr. Kirkwood said that DOH had approved the latest version of the SHIN-NY policies (V3.8) which should be made publicly available on DOH's website.

Mr. Kirkwood said DOH is very focused on vaccine distribution, and they are starting to push out data from the state immunization information system (NYSIIS) to the QEs.

IV. Policy Committee General Business Items

Regarding the Policy Committee membership cycling plan, Ms. Sutliff said NYeC is working on recruiting new Policy Committee members. She said current membership would remain the same through September, at which point there may be changes.

Ms. Sutliff explained that NYeC had developed a template for submission of new policy proposals. She said six proposals had been received using the new template, with three to be discussed during the meeting and three to be discussed at a later date.

Regarding the agenda for the year, Mr. Levin said the Policy Committee would continue to focus on modernization of the policies. He noted that the Policy Committee would address the roles of health plans and community-based organizations (CBOs). Dr. Vazquez said that in light of the COVID-19 epidemic, the Committee needed to do a better job at addressing primary care, noting that such practices need to play a greater role in vaccination. It was noted that the recruitment

and participation of primary care practices is done locally by the QEs. Ms. Eisenstein noted Rochester RHIO had a clinical advisory committee to address these types of issues.

V. CBO/SHIN-NY Partnerships

Mr. Cohen explained that JASA is a large CBO in New York City that focuses on serving older adults and is also a HIPAA covered entity. He said that JASA provides affordable housing, operates a licensed home care agency and an Article 31 mental health clinic, and offers an array of other services like senior centers. He said JASA does not upload any data into the SHIN-NY, and that the organization primarily uses the SHIN-NY to receive alerts, which are ingested into JASA's data warehouse then sent out to the right program.

Mr. Cohen said one priority was the reduction of the burden of entry for CBO participation. He also said that he would love JASA to be able to obtain alerts without going through the consent process. He noted that JASA is not administering COVID-19 vaccines but they try to keep their clients informed, address vaccine hesitancy, and help their clients schedule vaccine appointments.

Dr. Vazquez said he loved what JASA was doing, and he noted that the organization was rich in social determinant of health data that is important for coordinating care.

Mr. Allen inquired about the burden of entry into QEs. Mr. Cohen responded that the burden varied by QE, but the larger challenge is the consent issue. Ms. Shatzkin asked why JASA was not contributing data. Mr. Cohen answered that it is not an issue of hesitancy on JASA's part, but that it has not been an institutional priority to make the data available.

VI. Health Plans Role in the SHIN-NY

Mr. Donnelly described several use cases for health plans and SHIN-NY data. He noted that billions of dollars are spent in the country every year for medical chart chasing, and that QEs can help provide this data. As another example, QEs can potentially help plans determine eligibility for certain services.

Mr. Levin asked about the use of SHIN-NY data for prior authorization purposes. Dr. Mahoney said there is a concern about health plans having open access to SHIN-NY data. Mr. Donnelly said this is a historical concern that needs to be discussed.

Ms. Finnerty asked whether health plans need patient consent in order to receive alerts. Mr. Belfort said there is nothing in SHIN-NY policy that prevents health plans from receiving alerts without consent. Ms. Finnerty said she heard from plans that they are needing to obtain consent for alerts. Mr. Kirkwood said he had heard this too, and this is an operational issue that can be investigated.

VII. HIPAA and Part 2 Regulatory Changes

After a break, Mr. Dworkowitz provided an overview of potential changes that could occur to the Part 2 and HIPAA regulations. He described the proposals from the Office of Civil Rights to make changes to the HIPAA right of access and HIPAA rules governing disclosures to CBOs, as well as potential changes to 42 C.F.R. Part 2 in light of a statutory revision adopted by Congress the prior year.

Mr. Naqi asked if verbal consent for telehealth could be allowed for Part 2 data once the new regulation was adopted. Mr. Dworkowitz responded that the statutory change still requires written consent for Part 2 disclosures, but it would likely result in a regulation that made such consents less limited, such that there would be less of a need to obtain consent repeatedly.

VIII. Patient Engagement and Access Modernization

Ms. Sutliff said that an ad hoc workgroup would be established to modernize Section 5 of the policies, which address patient engagement. She said the workgroup would develop recommendations to be addressed by the full Policy Committee.

Mr. Dworkowitz noted that Section 5.5 was one provision that could be examined. He said that the section addresses certain aspects of patient education, but the section may not reflect the reality of how QEs were engaging in such education.

IX. New SHIN-NY Policy Proposals

Ms. Sutliff said that for this meeting, the Committee would review three (3) of the six (6) policy proposals developed and submitted by members for Policy Committee consideration. She said the goal was not to determine specific new policies, but to introduce the issues that would be address in a later meeting.

Breaking the Glass for EMTs

Ms. Eisenstein said that there is a push for EMS providers to become participants in the QEs and, as a result, they are seeking clarifications regarding their access to SHIN-NY data. She said such providers are seeking clarity on the definition of an Advanced Emergency Medical Technician, which is too narrow and does not include paramedics. In addition, she said that there is confusion as to whether the breaking of the glass must occur in the emergency department itself, or whether it can occur in another location, such as in transit to the scene of an emergency.

OMH Access to QE Data

Ms. Finnerty said that OMH meets the definition of a public health authority, in that it conducts public health reporting, investigations, and comparative effectiveness analysis. Dr. Martin said many agencies use the term “public health agency,” and asked for clarification as to what OMH is asking for. Mr. Finnerty said OMH is seeking a change to the current policy that would

indicate that OMH is a public health authority. Dr. Martin said if the change was adopted, it would allow OMH to access SHIN-NY data for public health purposes, but not treatment purposes.

Ms. Eisenstein asked if the proposal would also apply to County mental health departments. Ms. Finnerty answered that they were not proposing to include County departments, but such could be a friendly amendment. Ms. Shatzkin said they would need to discuss this issue further since there is no Part 2 exception for public health disclosures.

Disclosures to Death Investigators

Ms. Shatzkin said current SHIN-NY policy only allows licensed physicians and nurse practitioners to access SHIN-NY data for the purposes of determining cause of death. But in reality, within medical examiners offices there will be unlicensed staff who assist the licensed personnel with certification.

Dr. Mead said it was not the intention of the Policy Committee to exclude those who work for medical examiners. However, he questioned whether offices that do not have licensed staff at all should be given access to SHIN-NY data. Mr. Allen agreed that such offices should not be provided with SHIN-NY access.

Ms. Sutliff said all that was needed is a clarification to the SHIN-NY policies on this issue.

X. Closing

Ms. Sutliff said NYeC would develop specific proposals on some of the items discussed for the next meeting, scheduled for March 19. Mr. Levin thanked the Committee and adjourned the meeting.