

MONITORING REPORT FOR THE SETTLEMENT AGREEMENT BETWEEN THE UNITED STATES AND THE STATE OF NEW YORK IN THE MATTER OF *UNITED STATES V. THE STATE OF NEW YORK and THE NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES* (U.S.D.C. NORTHERN DISTRICT OF NEW YORK)

**Facility Monitoring Report:
Taberg Residential Center for Girls
Taberg, NY**

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August 15, 2016

INDIVIDUAL FACILITY MONITORING REPORT:
TABERG RESIDENTIAL CENTER FOR GIRLS
Taberg, NY

I. INTRODUCTION

This is the twenty-fourth monitoring report for the Settlement Agreement between the United States and the State of New York in the matter of *United States v. the State of New York and the New York State Office of Children and Family Services* (U.S.D.C. Northern District of New York), and it describes the monitoring visit to the Taberg Residential Center for Girls (Taberg) on May 17-19, 2016. As noted in the first monitoring report, the Monitoring Team consists of two Monitors, Dr. Marty Beyer, who is responsible for the Mental Health paragraphs of the Settlement Agreement, (hereafter referred to as the MH Monitor) and Dr. David Roush, who is responsible for the Protection from Harm paragraphs (hereafter referred to as the PH Monitor).

This report evaluates numbered Paragraphs 40-43, 44 a, b (second through fourth sentences), c, f, and g, 57 and 68 in the Settlement Agreement. Specific headings within these groups of paragraphs include Use of Restraints, Use of Force, Emergency Response, Reporting, Evaluation of Mental Health Needs, Use of Psychotropics, Staff Training on Psychotropic Medications and Psychiatric Disabilities, Psychotropic Medication Refusals, Informed Consent, Treatment Planning, Substance Abuse Treatment, Transition Planning, Document Development and Revision, and Quality Assurance Programs.

A. Facility Background Information

Taberg is a 24-bed limited secure facility for girls with two units in one building. Another building contains a gymnasium and library, and the school is in the Annex off-grounds. Taberg is described as having the only mental health unit for girls in New York State (with admission through a statewide Mental Health Unit committee), but the facility operates as an integrated mental health program with the same mental health and substance abuse services offered to residents on both units.

Taberg was a male juvenile facility, and it opened for girls on August 31, 2011 when 12 girls moved from Tryon. Staff originally came primarily from Tryon, Taberg Boys, Annsville, and Tubman. Retaining staff and creating cohesive unit teams and leadership team have been continuing challenges at Taberg since it opened.

On May 17, 2016, there were 16 girls in residence at Taberg. Two of the girls at Taberg in May, 2016 were there during the monitoring visit in November, 2015. The 16 girls ranged in age from 14 to 17. Four were 14 (one was 13 when she arrived at Taberg), 5 were 15, 4 were 16, and 3 were 17. The 16 girls had been at Taberg from 12 days to 390 days. The 16 Taberg girls had been adjudicated for: Assault (1), Criminal Mischief (2), Endangering a Child (2), False Report (2), Menacing/Weapon (1), Petit Larceny (2), Sex Abuse (1), Stolen Car (2), Stolen Property (1), Trespassing (1), and Violation of Probation (1).

B. Assessment Protocols

The assessments used the following format:

1. Pre-Visit Document Review

The Monitors submitted a list of documents for on-site review. The Monitors worked with OCFS to make the document production and review processes more efficient, especially ways to make the transportation of documents easier for Home Office without compromising the quality of information provided. The Monitors also received in advance of the monitoring visit a draft version of the *Program Review: Taberg Residential Center for Girls*, May 5, 2016 (also referred to as the QAI Report) from the Quality Assurance and Improvement (QAI) Bureau.

2. Use of Data

The Office of Children and Family Services (OCFS) has a good management information system with access to a wide range of data. A further review of the system and its capabilities allowed for the development of Excel spreadsheets for the regular collection and dissemination of facility data to the Monitors. The Monitors were given OCFS' tenth Six-Month Progress Report on December 17, 2015.

3. Entrance and Exit Interviews

The entrance interview occurred on May 17, 2016 with the Monitoring Team and OCFS representatives, including key staff members from the facility. The exit interview occurred on May 19, 2016. A complete list of attendees of the entrance and exit interviews is available upon request.

4. Facility Tour

Walkthroughs of the facility occurred throughout the visit.

5. On-Site Review

The site visits included a review of numerous documents available at the facility and not included in the pre-visit document request list. These documents included many reports that occurred in the time between the documents prepared for the Monitors and the on-site assessments. The MH Monitor observed two support team meetings (one of which included a Red Flag meeting), Mental Health Rounds, an intact team meeting, a Dialectical Behavior Therapy (DBT) group, a 7 Challenges substance abuse group, a Sanctuary group, a Therapeutic Intervention Committee (TIC) discussion, a pre-shift briefing, met with clinicians/coaches, met with staff to discuss the substance abuse program, and reviewed six residents' records. Both Monitors also participated in a presentation of special individual programming by the Taberg Acting Assistant Director for Treatment and a discussion with Home Office and Taberg leadership on the Taberg Action Plan for Managing Restraints.

6. Staff Interviews

The Monitors interviewed 24 Taberg staff. In addition to group meetings with staff, the MH Monitor interviewed two clinicians, one Youth Counselor (YC), and a nurse. The PH Monitor interviewed one Facility Director, one Regional Facility Manager, four YDA 3s, one

Acting Assistant Director for Treatment, six Youth Counselor 1/Administrator on Duty (AOD), one Recreation Specialist, two Bureau of Training Trainers, one Clinician, and three Nurses.

7. Resident Interviews

The MH Monitor had the opportunity to interact individually with girls on both units, and interviewed one Taberg resident privately. The PH Monitor interviewed 8 girls with an average age of 15.4 years. Interviews occurred in areas with operating surveillance cameras and reasonable privacy.

C. Preface to Protection from Harm and Mental Health Findings

Both Taberg units appeared calm and stable at the May, 2016 site visit, which staff attributed to the low population, individual programs for the most troubled girls, and strong teamwork.

The monthly Taberg updates provided by Home Office reflect the following in the months since the 11/15 site visit:

- *The population of the facility ranged from 13 (4/16/16) to 18 (2/16/16).*
- *In 4/16 there were four clinicians, but the newest clinician resigned after a month so for the other five months there were three clinicians (one of whom was the Acting Assistant Director for Treatment).*
- *Since January, 2016, there have been 8 YCs.*
- *From 12/15 to 5/16, there were 30 filled YDA positions, with 23-25 of those staff available each month.*
- *The number of suicide watches each month ranged from 10 (1/16) to 24 (2/16), the month with the highest population.*
- *The number of arms length supervisions each month ranged from 5 (5/16) to 8 (12/15).*
- *The number of admissions each month ranged from 0 (4/16) to 6 (2/16); of these girls, the number who were returnees to Taberg ranged from 0 (4/16 and 5/16) to 4 (2/16).*
- *The number of releases each month ranged from 2 (4/16 and 5/16) to 6 (3/16).*

Since it opened as a girl's facility in 2011, the Monitors have expressed concerns about Taberg staffing for YDAs, YCs, and clinicians. The Taberg administration has recruited and hired many YDAs, but with turnover the staff on the units has been described as "green" at every site visit. While the day shift has strong unit leadership and more seasoned staff, a continuing challenge is that the evening shift often has many inexperienced staff. It was concerning that a promising new clinician arrived and resigned after a month in the spring, 2016. The new Facility Director arrived at Taberg shortly after the last site visit in November, 2015. In this site visit, he described several accomplishments: (1) improvement in staff retention—all YDA positions are filled, per diem staff are being added, and there are 8 YCs; (2) improvement in cleanliness and respectfulness; (3) weekly department heads meeting, weekly mid-management meeting,

monthly all-staff town halls, and enhanced pre-shift briefings; and (4) expanded recreational activities, with cosmetology, culinary class, a new t-shirt printing lab, bikes, Fun Zone, Spa days, garden club, and incentives including a new iPod and off-grounds lunch for residents with no codes or restraints and full involvement in school. It was noteworthy that there were no references to the New York Model in his presentation, and it appeared that “program” was being artificially separated from “treatment.”

Since the November, 2015 site visit, the Monitors have discussed modified Graduated Response System (GRS) thresholds with OCFS and DOJ. In response to a request by DOJ, Home Office prepared a draft Action Plan in May, 2016. The Monitors requested that the plan be modified after Taberg staff presented a description of how specialized individual programs for residents with the highest numbers of restraint and suicide watch would help them improve their self-regulation and could justify removing their restraints for GRS consideration. As described in detail in the Mental Health section of this report, the Acting Assistant Director for Treatment gave an outstanding presentation on responding to the complex trauma of several residents with specialized individual programs. The Monitors hoped that the intensive supports tailored to individual residents to mitigate rates of restraint and suicide watch would result in Taberg achieving sustained compliance with the Settlement Agreement. After the May, 2016 site visit, the Monitors were dismayed to learn of Dr. Goel’s resignation. Since her arrival at Taberg, the Monitors have been impressed with Dr. Goel. She is a talented clinician with unusual skill in working with residents, coaching staff and teaching the New York model as it applies to each resident. The departure of Dr. Goel influenced the Monitors’ response to the June 1, 2016 revised Home Office Action Plan regarding the proposed GRS modification. The Monitors’ willingness to support an Action Plan that includes intensive supports tailored to individual residents to mitigate rates of restraint and suicide watch was a function of the level of comprehensive clinical analyses and integrated program plans Dr. Goel presented during our May, 2016 site visit. The Monitors got the impression and heard from other Taberg staff that the success of the Action Plan relied on Dr. Goel’s skills. Taberg will be challenged to provide assurance that intensive supports tailored to individual residents can be provided without Dr. Goel’s leadership, especially with Taberg again having only two clinicians. In addition, Dr. Goel led Taberg’s new efforts to ensure residents’ success after leaving Taberg (and reducing returns). Furthermore, the Monitors are concerned that—as occurred in the past—the loss of a leader and valued clinician will require significant adjustment by residents and staff, influencing safety and girls’ progress at Taberg and after re-entry. The Monitors will have to be assured that Taberg will be able to provide intensive supports tailored to individual residents without Dr. Goel and the additional staff we suggested at the monitoring visit.

II. PROTECTION FROM HARM MONITORING

Protection from Harm outcomes confirm progress, though some of the improvements and positive outcomes noted in the QAI Report and outlined to the Monitors during the entrance meeting were greater than what was experienced during the monitoring visit. Noteworthy are targeted improvements in organizational structure, safety, and staff retention; more recreation, leisure time activities, and DAS incentives; a culture of celebration development of peer leaders; a greater sense of community, an

increased YDA emphasis on relationships with residents, and the strengths-based focus of Support Teams. The Industry-recommended track system that divides each living unit (Amethyst and Opal) into two smaller groups creating two teams within the unit parallels the Intact Team concept that worked well at Finger Lakes.

Home Office continues to work hard to address ongoing personnel transitions and vacancies at Taberg. Transition issues continue to slow the pace of return of Protection from Harm paragraphs to the equilibrium that existed before the problems in February 2014. Noticeable improvements include:

- a. The core group of YDAs and SG-18s, i.e., Administrators on Duty (AOD) and Youth Counselors (YC), gets better and more adept at integrating the New York Model.
- b. The pre-shift briefing with enhanced attention to specific youth and review and discussion of IIP suggestions provides a substantial amount of good information between shifts. The concept of communicating up-to-date information about both the treatment and safety aspects from the previous shift is an indicator of movement toward greater program integration and consistency.
- c. Improvements in the DAS and increases in activities with community involvement.
- d. The May 5, 2016 QAI Report found 100% of physical restraints were within its "Meets Standards" range.

These improvements indicate areas of strength that can serve as a foundation for sustained program enhancement. The QAI Report focused largely on the time period of November, 2015 through March, 2016 during the first months of new Facility Director (FD) Gonzalez' tenure. Improvements since then are noticeable, along with remaining challenges.

A. Threats to Protection from Harm

Disruptions to structure, order, organization, and perceptions of safety influence Protection from Harm. Despite substantial Home Office efforts, problems remain related to filling shifts without mandations and hiring YDAs fast enough to fill vacancies created by injuries, restricted contact status, various leave usages, and resignations. The Monitors asked for and have received from Home Office monthly status reports on Taberg that include descriptions of staffing, programs, and key indicators of Mental Health and Protection from Harm issues identified in the Settlement Agreement. Use of force frequency data have been fluid, which suggests that Home Office and Taberg efforts to restore Protection from Harm factors to the pre-March 2014 level need continued attention. Evidence of difficulty is the fluctuation in uses of force.

1. Operational Stability

Transitions and their accompanying changes continue with the appointment of a new Facility Director and a new Settlement Agreement Coordinator. The new FD is Anthony Gonzalez, who has set the environmental context as his focus for improvement. Starting with the physical plant and moving to policy and procedure revisions, Gonzalez

seeks to enhance the organizational culture so that it promotes consistent and predictable responses by all staff to resident behaviors. The absences of consistency and predictability were common themes from interviewed youth and staff regarding areas of the Taberg implementation of the New York Model that still need improvement. There seems to be consensus that consistency and predictability are needed elements for the New York Model at Taberg.

The new Settlement Agreement Coordinator is RJ Strauser, former AFD for Programs at Columbia. Strauser teamed with Dr. Patricia Fernandez at Columbia to create the best example of a fully integrated New York Model program to date, so his advice and guidance from that direct, in-the-system experience could combine effectively with FD Gonzalez' efforts to improve structure.

The challenge for FD Gonzalez is the New York Model. As the chosen theoretical model to meet the needs of OCFS youth, the New York Model has demonstrated success in other facilities. Taberg presents challenges on multiple fronts. First, the population is more difficult than other facilities, and this creates stress on staff at all levels to respond appropriately within the context of the model yet recognizing a multitude of individual differences. Nowhere does this play out more dramatically than in the interactions between youth and YDA staff. Second, the structural components of the New York Model intended to create incentives to increase appropriate behaviors have room for substantial improvements at Taberg. From a systems perspective, Taberg has been in some type of transition since its inception as evidenced by ongoing personnel changes and vacancies that have worked against the establishment of sufficient routine, order, and consistency that are commonly associated with a physically and emotionally safe environment.

Another indicator of the challenge has been FD Gonzalez' descriptions of his priorities for the environmental context. They have contained no references to the New York Model. While he has struck chords that resonate, such as, safety, consistency, staff retention, and accountability, the key for Taberg may be the development of a fully integrated program as described by the Mental Health Monitor at the exit interview. A fully integrated program carries with it important qualities currently absent from FD Gonzalez' plans. Not only do the structural components of daily living and behavior management accurately require strengthening and continuous attention, but these structural elements must also include New York Model concepts and influences.

2. The SG-18s' Dilemma

Taberg has an excellent group of 18s. Collectively, they have the skills and abilities to form the core nucleus of a fully integrated program. Before this can occur, several issues need to be resolved. The job of the 18s is particularly difficult at present. They negotiate the problems arising from inconsistent applications of the New York Model. At this time, it appears to be a stressful and sometimes thankless job. The absence of unified program decisions is mostly responsible. On one hand, YDA staff press for greater accountability usually in the form of questions from individual YDA staff related to sanctions. For example, the Taberg tolerance for profanity by youth and staff creates multiple problems. Almost as if circular, youth say they use profanity in general and specifically towards staff because they say they feel disrespected. Staff use profanity out of the stress and frustration

they claim results from mixed messages and inconsistencies from administration. Enter the 18s: By addressing profanity at the YDA level, they receive substantial push back from YDA staff about the way they are treated by youth, especially the type of profanity from youth. Staff perceive a lack of fairness, but the 18s' consistent and predictable actions resonate. By addressing profanity with youth, the 18s become the primary agents of the New York Model by showing YDA staff, on the short-term, how the New York Model can be integrated into day-to-day problem-solving; but they risk being unable to demonstrate to the YDA staff the reductions in profanity that occur over time with predictable New York Model problem-solving responses. The 18s attempts at greater consistency are undermined due to staffing shortages or program/incentive cancellations or treatment priorities that place profanity at a secondary level.

3. Staffing

There is a fatigue among staff and, perhaps, Home Office regarding the ongoing challenges and transitions that have worked against stability and continuity at Taberg. While a core group of YDAs remains that could be transferred to any other juvenile facility and could form the nucleus of an excellent direct care staff, they are simply not yet a critical mass capable of shifting the institutional culture.

Significant time and energy have gone into efforts to staff Taberg fully and adequately. For example, hiring a large number of YDA staff means that these individuals are in need of experience beyond academy training to get them to the point that they understand the youth, the New York Model, the Taberg values and mission, and the importance of teamwork. Many juvenile corrections administrators believe that it takes a new direct care staff member approximately 18 months to two years to acquire sufficient experience to be competent and reliable in performing the job duties. Until this happens, these YDAs are commonly referred to as "green." The presence of "green" YDAs simply means that the agency has to be patient as they mature professionally into the job, but several YCs commented that Taberg is presently as "green" as it has ever been.

Another variable is staffing availability. The absence of an adequate number of YDAs to work a given shift during the week affects Protection from Harm. The staffing challenge is not simply about the number of authorized positions as part of the annual budget. Instead, adequate staffing has to do with the availability of qualified individuals to work a shift. It is difficult to be patient while managing limited secure custody operations when the number of YDAs who have some type of restriction on job duties due to investigations or safety plans, or have extended leave due to workers comp, FMLA, extended sick and other leave, or have resigned means that there are not enough YDAs available to meet the Coverage and Assignment requirements for the shift.

Information provided by Home Office in May 2016 indicates that one aspect of the staff adequacy problem has improved. The status of YDA 3 staff where only 64% of the budgeted positions were available for unrestricted work on a shift compares favorably to 43% calculation in November 2015. But, when applied to the established biweekly Coverage and Assignment pattern for Taberg, this staffing availability remains a problem. An overtime comparison was not conducted this visit. Previously, overtime comparisons confirmed information from Taberg staff about the frequent use of mandations where over

60% of YDA staff experienced mandations during a two-week schedule. YDA staff reported at the May 2016 site visit that mandations remain at levels that stress their ability to maintain an optimal level of job performance.

4. Youth Perspectives

OJJDP's evidence-based literature on Pathways to Desistance findings provide evidence that the more positively youth perceive their experience, the more likely are reductions in recidivism, even after controlling for individual characteristics and facility type. Beginning with the August 2012 monitoring visit, the PH Monitor has administered (to a stratified non-random sample of Taberg youth selected by the PH Monitor from the ARTS list) a survey about the Taberg experience using questions from the Performance-Based Standards (PbS) Project's Youth Climate Survey. These data provide a basic measure of how the New York Model has been perceived over time.

One area where consensus existed among youth was the perception that a small group of outstanding YDAs exists. Youth reported positive of comments about many staff members. All youth named at least one staff she could go to during times of emotional upset to find support and comfort. This level of emotional safety likely accounts for the higher ratings of perceived safety on the 1-10 scale. Two distinct characteristics of the "good" staff members are common threads in youth descriptions. They are expressions of care and concern but also the consistent and predictable holding youth accountable for misbehavior. Interestingly, these are characteristics of staff in a fully integrated program.

When asked what would make Taberg better, several responses occurred repeatedly. They are: (a) youth feel safer when there are enough staff to work the shift; (b) more incentives and activities; and (c) consistency, e.g., staff need to be on the same page. Restoring consistency and continuity should generate greater agreement among youth about perceptions of how the programs are operating. While there are specific areas of strong agreement, variability in perceptions still exists.

The Pathways findings affirm that structure as reflected by the youth's understanding of the rules, policies, procedures, daily schedule, and behavior management (DAS) promote the youth's adjustment to the facility and increase the likelihood of positive program outcomes. Youth appear to know the facility rules, but express less understanding of the DAS, phases, and YDA applications of discipline (rule enforcement). Only one youth endorsed the survey statement about YDAs being fair about discipline issues. Again, there are no expectations for 100% positive endorsements on the youth survey as the threshold indicator of compliance; however, these levels of perceptions are indicative of frustration and anger toward some YDAs that trigger emotional outbursts, some of which justify physical restraints.

Have the last six months of changes under new FD Gonzalez resulted in changes in youth perceptions? Table 1 compares the average percent "yes" responses to selected youth survey questions from November 2015 (n = 12) and May 2016 (n = 8). This permits a better assessment of current status and improvements. Favorable comparisons include safety, physical restraint related injury, perceptions that staff try to hurt youth during a restraint, and positive statements made by staff to youth. The results are encouraging.

Table 1. Average Percent “Yes” Responses to the Youth Climate Survey Questions:
Before and Current Comparisons

Question <i>n =</i>	2015 Nov 12	2016 May 8	Percent Difference
Do you understand the facility rules?	100%	100%	no change
Do you understand the level, phase, or points system here?	25%	25%	no change
Have you feared for your safety?	41.7%	25%	-40.5%
Have you had personal property stolen directly by force or by threat?	16.7%	0%	-100%
Have you been beaten up or threatened with being beaten up?	66.7%	62.5%	-6.3%
Have you been involved in any fights?	58.3%	75%	28.64%
Do staff make more positive comments to youth than negative comments?	33.3%	62.5%	87.7%
Are staff members fair about discipline issues?	0.0%	12.5%	DNC
If you have been restrained, do you think staff tried to hurt you?	66.7%	25%	-62.5%
Within the last six months here, have you been injured?	41.7%	62.5%	49.9%
If yes, was the injury the result of a physical restraint?	100%	0%	-100%
Have you ever made a complaint against a staff member as a result of a physical restraint?	58.3%	50%	-14.2%
On a scale of 1-10, with 10 being the highest, how safe do you feel in this facility?	6.79	8.5	26%

Note: DNC = does not compute because the divisor is zero

Responses to other youth survey questions include:

- 50% agreed that the Daily Achievement System (DAS) helps them behave better.
- 50% indicated that staff members show them respect.
- 25% indicated that staff are always good role models.
- 50% indicated that if a youth thinks another youth is going to attack or hurt her, the staff protects her.
- 100% indicated that they have been involved in a physical restraint.
- 0% indicated that the grievance system works.

These comparisons demonstrate positive movement in several categories and reveal other categories where improvements are needed.

How do current perceptions of youth compare to September 2013 when youth perceptions of their New York Model experiences were at levels that combined with other information, observations, and outcome data to support compliance with multiple Protection from Harm paragraphs? Using several key Protection from Harm survey questions, the September 2013 average percentage of “yes” responses can be found in the first column of Table 2. These averages are important because they were the last survey before the disruptions caused by unfounded sexual abuse allegations starting in February 2014. Similarly, the response percentage comparisons are encouraging, suggesting growing support for the assumption that increased positive perceptions by youth affirm structural and consistency-based efforts to create an integrated program environment that promotes self-regulation and reduces the types of emotional dysregulation associated with uses of force.

Table 2. Average Percent “Yes” Responses to the Youth Climate Survey Questions: Before and Current Comparisons

Question <i>n</i> =	2013 Sept 9	2016 May 8	Percent Difference
Do you understand the facility rules?	100%	100%	no change
Do you understand the level, phase, or points system here?	77.7%	25%	-67.9%
Have you feared for your safety?	11.1%	25%	125.0%
Have you had personal property stolen directly by force or by threat?	22.2%	0%	-100.0%
Have you been beaten up or threatened with being beaten up?	11.1%	62.5%	463.1%
Have you been involved in any fights?	44.4%	75%	68.9%
Do staff make more positive comments to youth than negative comments?	55.6%	62.5%	12.4%
Are staff members fair about discipline issues?	44.4%	12.5%	-71.8%
If you have been restrained, do you think staff tried to hurt you?	0%	25%	DNC
Within the last six months here, have you been injured?	22.2%	62.5%	181.5%
If yes, was the injury the result of a physical restraint?	0%	0%	no change
Have you ever made a complaint against a staff member as a result of a physical restraint?	33.3%	50%	50.2%
On a scale of 1-10, with 10 being the highest, how safe do you feel in this facility?	8.44	8.5	0.7%

Note: DNC = does not compute because the divisor is zero

Youth again told the PH Monitor that some of physical restraints reflect attempts by certain youth to control the system, and restraints and Personal Safety Watches are well-known ways to get attention and room time (alone time).

5. Staff Perspectives

Current staff repeated what the staff identified at previous monitoring visits: There is an on-going stress under which they approach each new shift. The same three themes emerged as problems for staff. First, consistency has been improving but not to the point that basic behavior management strategies are sufficiently effective (recall that only 50% of girls report that the DAS helps them behave better). Staff pointed to the DAS where new ideas have prompted great interest by youth but then disappear. The DAS is sensitive to inconsistencies in staffing assignments where “green” staff do not know the youth well enough to reinforce youth who have been doing well as opposed to paying too much attention to problem youth. Second, a few staff still fear that the youth remain emboldened to behave inappropriately because of the lack of timely consequences for misbehaviors, i. e., the admittedly manipulative uses of PSW or SW statuses. Dr. Goel had used more direct communications about status implications that YDA staff believed lessens the amount of manipulation. Third, staff express frustration and some apprehension about the staff shortages and the amount of fatigue resulting from too much overtime.

Home Office provided specific training and coaching from Industry personnel for Taberg recreation staff. The schedule of activities shows substantial expansion in the range and frequency of the events for youth. Staff and youth remark that the number of events has increased. Many of the new events and activities were rated very highly. However, concerns remain. Both youth and staff offer perspectives on why youth still complain about the lack of things to do and the frustration that follows when a popular event is

subsequently not repeated. Staff note that youth do not participate willingly in physical activities, such as recreation, basketball, volleyball, etc., especially if given the choice. Youth agree, but they add that there are a lot of other reasons why activities do not happen. The predominant explanations are that there are either not enough YDA staff or the staff on duty are too tired due to a mandation.

B. Use of Restraints

The Central Services Unit (CSU) Restraint Log for April 2016 contains fewer incidents of force. Because the QAI Report covered the months during the height of administrative transitions, April was selected in the anticipation of indicators of increased stabilization and return to normal operations. The comparisons with the OCFS monthly data reports confirm an increase (56%) in the percentage of to-the-ground restraints (with a presumptively greater use of force than a standing restraint) from November 2015 to April 2016. Similarly, the monthly data show a 43% reduction in the percentage of to-the-ground restraints from March to April 2016. Frequency and rate data continue to fluctuate, implying that Taberg has not yet achieved a desired level of stability and continuity to support compliance arguments.

The CSU Restraint Log is a good source of use of force raw data and identifies 3 uses of handcuffs during a restraint (Paragraph 41a) in April 2016. This is a 32% reduction in the use of handcuffs compared to the rate of usage from the November 2015 visit. These findings follow Home Office's proactive December 5, 2014 memorandum to all facilities that addressed the duration of the use of handcuffs and implemented safeguards requiring the approval of the Deputy Commissioner of the Division of Juvenile Justice and Opportunities for Youth (DJJOY) to extend the use of handcuffs beyond a certain time threshold. The Monitors hope these Home Office constraints on mechanical restraints will continue to have a positive effect on reduced frequencies of use and duration.

What changes in use of force as measured by restraints have occurred in the lead up to the previous monitoring visit and this visit? Table 3 compares the six months (May-October 2015) of OCFS restraint data preceding the November 2015 monitoring visit with the six months of comparable data (November 2015-April 2016) preceding this visit. The comparisons bring up discussions about the differences between total numbers of incidents (frequency data) versus rates (incidents per 100 bed days). Both have strengths, and monitoring has given priority to rates because of their ability to compare use of force activity when ADP varies. However, as the treatment orientation strengthens and moves toward an integrated program, frequency data gain more importance. If uses of force have re-traumatizing potential for most Taberg youth, then frequency data indicate anti-therapeutic events and specific targets for corrective and intensive treatment interventions.

The frequency data (Table 3 rows identified by "Total") show reductions in all categories. What does draw attention in Table 3 is the statistically significant reduction by Home Office in the Days Care Per Month. Fewer youth also mitigates staffing adequacy concerns, thus allowing for more time for interactions between youth and staff.

Table 3. OCFS Restraint Data Comparisons

	Nov 2015		Apr 2016		% dif
	Ave	SD	Ave	SD	
Care Days per Month	608.3	40.8	475.8	38.4	-21.8%*
Total Number of Unique Standing/Escort:	27.2	10.3	21.8	7.2	-19.6%
Standing/Escort Rate Per 100 Days	4.4	1.5	4.6	1.5	4.0%
Total Number of Unique Ground/Restraint:	55.5	18.6	47.2	20.2	-15.0%
Unique Ground/Restraint Rate Per 100 Days	9.1	2.9	9.9	4.2	8.9%
Total Unique Restraints	82.7	27.7	69.7	27.8	-15.7%

Note: * = $p < 0.05$

40. *The State shall, at all times, provide youth in the Facilities with reasonably safe living conditions as follows:*

41. *Use of Restraints. The State shall require that youth must not be subjected to undue restraints. The State shall create or modify policies, procedures, and practices to require that the use of restraints be limited to exceptional circumstances, as set forth below, where all other appropriate pro--active, non--physical behavioral management techniques have been tried and failed and a youth poses a danger to himself/herself or others. Restraints shall never be used to punish youth. Accordingly, restraints shall be used only in the following circumstances:*

- i. Where emergency physical intervention is necessary to protect the safety of any person;*
- ii. Where a youth is physically attempting to escape the boundary of a Facility; or*
- iii. Where a youth's behavior poses a substantial threat to the safety and order of the Facility.*

PARTIAL COMPLIANCE

COMMENT: Home Office requested a modification of the GRS, with Monitor endorsement, that generated a DOJ request for an action plan. The action plan is due diligence related to a request to lessen a Home Office-generated and Monitor- and DOJ-approved Protection from Harm metric. In addition to a compelling rationale for adjusting the GRS thresholds, Home Office also raised the larger question of the relationship between Mental Health treatment and Protection from Harm. In doing so, the door was opened for discussions about the unanticipated evolution of Taberg, the resulting uniqueness of the youth in custody, the mandate for treatment, and the ways that the Settlement Agreement seems less relevant to the current situation at Taberg. Since adjusting the Settlement Agreement is unlikely, can mutually acceptable approaches to compliance be constructed in such a way to resolve the Settlement Agreement to the parties' satisfaction while simultaneously protecting the Mental Health and Protection from Harm interests of youth that generated the DOJ action? Discussions so far suggest modified ways of making sense of the recent research findings on the interconnections of trauma, adolescent brain development, emotions, and behaviors. The new science is compatible with the New York

Model approach but commends some recalibrations. The Taberg version of the New York Model must be responsive to the range of situations that re-traumatize or trigger a more intensive emotional "survival reaction" in some of the residents.

The May 2016 QAI Report (p. 104) indicates that the use of physical restraints rated 100% compliance with QAI standards. The assumption is that all criteria for conducting the restraint were met, including justification. Yet, since the November 2015 visit, the restraint data for both total restraints and to-the-ground restraints have revealed monthly rates in excess of the "red level" threshold and in excess of the recommended adjustment to the "red level" threshold. Even though restraint rates are not used as a standalone statistic for assessing use of force, they influence mechanical restraints and injuries. The current Taberg use of force practices create an uncomfortable dissonance to reconcile the Home Office assertions embedded in the QAI Report that 100% compliance with its standards reflects reasonably safe living conditions. Without some type of intervening or mitigating factor, the GRS remains an important metric for Protection from Harm. A compliance finding is still too difficult given the number of restraints during the review period above the GRS "red" level.

For example, Table 4 charts the rates of restraints from November 2015 through April 2016. The results are still not acceptable. At no time does the GRS "red zone" status move to "yellow" in fewer than 90 days; Taberg has spent the past six months in GRS "red zone" status; and the past four months of GRS to-the-ground restraints rates were at a "red zone" level two time greater that the proposed modified GRS "red zone" threshold.

Table 4. November 2015 – April 2016 Graduated Response System Data

	NOV	DEC	JAN	FEB	MAR	APR	Ave.
Care days per month:	509	444	522	486	473	421	551.3
Total Number of Unique Standing/Escort:	12	16	24	30	29	20	24.5
Standing/Escort Rate Per 100 Days:	2.36	3.60	4.60	6.17	6.13	4.75	4.4
Total Number of Unique Ground/Restraint:	27	26	46	68	74	42	47.1
Unique Ground/Restraint Rate Per 100 Days	5.30	5.86	8.81	13.99	15.64	9.98	8.6
GRS Zone	7.7	9.5	13.4	20.2	21.8	14.7	13.0

In the absence of a compelling rationale to abandon frequencies and rates of to-the-ground physical restraints as an important measure, the GRS is the first element of compliance.

Other use of force measures apply to Protection from Harm determinations. Between January 2015 and May 2016, Taberg youth experienced the use of handcuffs in a physical restraint an average of 7.7 times per month. Over the past four months (February-May), there have been 12, 16, 4, and 15 uses of handcuffs with physical restraints, respectively. Additionally, over the same period, the average number of injuries to youth resulting from a physical restraint is 11.0 per month. Over the past four months, there have been 2, 20, 11, and 8 youth injuries from physical restraints, respectively. Again, the presumption is that these harm indicators will reduce noticeably when the GRS levels are yellow or green.

Further, the State shall:

41. a. *Create or modify and implement policies, procedures, and practices to require that in the limited circumstances when the use of restraints is necessary, staff shall employ only the minimum amount of physical control and time in restraints necessary to stabilize the situation.*

PARTIAL COMPLIANCE

COMMENT: Youth who struggle most in acquiring emotion regulation are identifiable. One reliable identifier is physical restraints. In several instances, these youth (usually no more than three recently) have accounted for as many as four of five (80%) of the physical restraints for a monthly data collection. While the general nature of the Taberg population is among the most challenging, they are also taxing from a mental health perspective. Still, there is within this population a subset of youth with emotional problems that seem to exceed the skills of many properly trained staff. In a facility of multiple unique youth, there are occasions when one or more youth arrive that make the seemingly impossible challenges of the Taberg population look simple. For these youth, Taberg creates an Alternative Program (AP); and, at this point, the level of treatment comprehensiveness and intensity for these youth may supersede the use of force parameters in the Settlement Agreement. Because these AP youth have various pressing treatment needs, the use of physical restraint data become debatable in two ways. First, as a stand-alone measure, aggregate rates of physical restraint could be flawed when one statistic evaluates different groups of youth, similar to an apples versus oranges comparison. Second, aggregate rates are not as effective in understanding the level of safety of the non-alternative treatment group if they are elevated by large numbers of restraints by just a few AP youth. A rationale exists for separating use of force measures into AP and regular treatment groups. The DOJ-requested Action Plan may address this distinction. Note: The Monitors reviewed GRS restraint rates with the restraints of AP youth removed to a separate category during this monitoring visit. Attempts to reproduce these data for this report have not occurred due to delays at Home Office in sending AP information.

41. b. *Create or modify and implement policies, procedures, and practices regarding the application of restraints to youth at heightened risk of physical and psychological harm from restraints, including, but not limited to, youth who are obese, have serious respiratory or cardiac problems, have histories of sexual or physical abuse, or are pregnant.*

COMPLIANCE

COMMENT: The PH Monitor's direct observations, youth and staff interviews, and the conclusions from the Taberg QAI Report to support this finding. While policy and procedures exist, the training on the policies and procedures has occurred, and staff and resident interviews were consistent with the policy and procedures, the PH Monitor found an increased coherence between the IIP recommendations and YDA assessments of their effectiveness due, in large part, to the enhanced pre-shift briefings by the AOD.

The IIP is an OCFS-generated treatment resource to help staff reduce the risk of use of force harm by identifying for other staff individual risk factors for each youth and

delineating safety strategies to de-escalate emotional dysregulation sufficiently to avoid use of force. Interviews with direct care and health care staff revealed a working knowledge of physical conditions and circumstances that limit the restraints to youth due to heightened risk of physical or psychological harm. YDA staff members consistently pay attention to the physical limitations that restrict CPM. The AP is another IIP treatment resource that moves to another level of treatment intervention. All of these interventions reflect elements of an integrated program and the increased communication between staff. Additional communications examples include a greater sense of community, an increased YDA emphasis on relationships, the strengths-based focus of Support Teams, weekly department head meetings, weekly mid-management meetings, monthly all-staff town halls, and the enhanced pre-shift briefings.

41. c. *If face--down restraints continue to be used, create or modify and implement policies, procedures, and practices to require that staff utilize them only in emergencies when less restrictive measures would pose a significant risk to the safety of the youth, other youth, or staff. In addition:*

- i. *Face-down restraints shall be employed for only as long as it takes to diffuse the emergency, but in no event shall a youth be restrained in a facedown position for more than three (3) minutes.*
- ii. *Trained staff shall monitor youth for signs of physical distress and the youth's ability to speak while restrained.*
- iii. *Medical personnel shall be immediately notified of the initiation of a facedown restraint position, and the youth shall be immediately assessed by medical personnel thereafter. In no event shall more than 4 hours lapse between the end of a facedown restraint incident and the assessment of the involved youth by medical staff.*

COMPLIANCE

COMMENT: The PH Monitor's review of data combines with direct observations, youth and staff interviews, and the conclusions from the Taberg QAI Report support this finding. The policy and procedures exist; the training on the policies and procedures has occurred; and staff and resident reports are consistent with the policy and procedures. There has been an elimination of facedown or prone restraints. Isolated instances may occur as a result of unusual circumstances or concerns about individual staff members, but these are mostly technical failures or accidental circumstances and do not represent systematic problems.

41. d. *Prohibit the use of chemical agents such as pepper spray for purposes of restraint.*

COMPLIANCE

COMMENT: Taberg has sustained compliance with this paragraph. The PH Monitor's direct observations, document reviews, youth and staff interviews, and the findings from the Taberg QAI Report support this finding.

41. e. *Prohibit use of psychotropic medication solely for purposes of restraint.*

COMPLIANCE

COMMENT: Taberg has sustained compliance with this paragraph. The PH Monitor's direct observations, document reviews, youth and staff interviews, and the findings from the Taberg QAI Report support this finding.

41. *f. Create or modify and implement policies, procedures, and practices to require that staff are adequately trained in appropriate restraint techniques, procedures to monitor the safety and health of youth while restrained, first aid, and cardiopulmonary resuscitation ("CPR"). The State shall require that only those staff with current training on the appropriate use of restraints are authorized to utilize restraints.*

COMPLIANCE

COMMENT: Training also continues to be in compliance. The number of trainings provided is quite large due to the influx of new YDAs. However, regarding staff being current on CPM and first-aid, the records show that all but four staff who qualify for training have had their refresher courses. The perspective of the Training Department was that these employees elected not to attend the designated training. Assistance is needed from administration to assure that staff receive the required training. Accurate and current information was posted in CSU regarding those individuals who had not completed CPM or first-aid.

A noteworthy concern expressed by one YDA at the May 2016 site visit was the perceived lack of knowledge and understanding among YDAs about the New York Model. Discussions with Trainer Rutledge about the occurrences of New York Model training suggested no specific action to date by Home Office to address this deficit.

B. Use of Force

42. *Use of Force. In order to adequately protect youth from excessive use of force at the Facilities, the State shall:*

42. *a. Continue to prohibit "hooking and tripping" youth and using chokeholds on youth.*

COMPLIANCE

COMMENT: Taberg has sustained compliance with this paragraph. The PH Monitor's direct observations, document reviews, youth and staff interviews, and the findings from the Taberg QAI Report support this finding.

42. *b. Create or modify and implement a comprehensive policy and accompanying practices governing uses of force, which shall provide, among other things, that the least amount of force necessary for the safety of staff and youth is used.*

PARTIAL COMPLIANCE

COMMENT: The PH Monitor's review of data, including multiple Restraint Packets, combines with direct observations, youth and staff interviews, and the conclusions from the Taberg QAI Report to support this finding. The logic of the New York Model (as is common with most behavioral treatment systems for juvenile correctional facilities) is that the application of its principles and techniques by youth and staff should increase emotional regulation in the face of problems and crises and, thereby, mitigate the accompanying practices governing uses of force. This does not imply that the New York

Model will eliminate the need for an occasional use of force or physical restraint, and the Monitors have never suggested that it should. There has been acknowledgement of the effectiveness of the model with many girls where fewer uses of force have been an indicator of improved affect regulation.

During the monitoring visit, the focus was on the events that occurred in April 2016. This month takes into account the efforts of FD Gonzalez that have had the longest time to show positive outcomes. The CPM requirements combined with the strength and endurance of certain youth, and the physical characteristics of certain staff to contribute to the belief among many staff that the least amount of force necessary for the safety of staff unofficially includes the calculation of pain to knees and backs. There needs to be more discussion about how this relates to compliance.

This paragraph is very close to compliance, and future monitoring will allow time for certain modifications to demonstrate their effectiveness. These include (a) the reconstituting of a powerfully effective AP once a new Assistant Director of Treatment has been appointed and can re-establish the comprehensiveness and intensity of the AP program that the Monitors experienced on this visit, (b) the development of an Action Plan that receives DOJ endorsement for implementing the proposed adjustment to the GRS thresholds, and (c) the use of new GRS rate calculation strategies.

42. c. *Create or modify and implement policies, procedures, and practices to require that staff adequately and promptly document and report all uses of force.*

COMPLIANCE

COMMENT: The PH Monitor's review of data, including multiple Restraint Packets, combines with the conclusions from the Taberg QAI Report to support this finding. While the policy, procedures, training, and evidence of a corresponding practice exist, the quality of documentation is improving. The QAI Report also registered documentation concerns but noted the substantial efforts of Home Office to reduce the backlog of Restraint Packet reviews and other critical actions that keep middle management staff away from the amount of direct supervision necessary to strengthen overall documentation efforts. To get caught up, additional administrative staff and middle management staff provided by Home Office spend many hours conducting Restraint Packet reviews.

The previous monitoring report quoted one staff member's assessment of Documented Instruction with "It's a good concept but people do the wrong thing over and over, and there are no repercussions. Administration needs to know the difference between a training need and a bad attitude." As FD Gonzalez strengthens the structure, rules, expectations, and supervision, those staff with job performance problems are likely to attract corrective action plans and discipline. While documentation is a challenge in every facility across the country, stabilizing personnel expectations and allowing staff members to address quickly the resolution of critical documentation is a primary objective.

42. d. *Create or modify and implement a system for review, by senior management, of uses of force and alleged child abuse so that they may use the information gathered to improve training and supervision of staff, guide staff discipline, and/or make policy or programmatic changes as needed.*

COMPLIANCE

COMMENT: The GRS provides important information for compliance determinations for this paragraph. The Therapeutic Intervention Committee (TIC), in conjunction with the administrative review of Restraint Packets, is the aforementioned “review by senior management.” Additionally, these TICs are the mechanism tied to the OCFS restraint metrics by which GRS “red zone” status moves to “yellow” or “green” status.

Threats to compliance remain. Too many staff do not understand an integrated program, and the large proportion of admittedly “green” YDAs on a shift requires more actual direct coaching on New York Model practices. Classroom training may be of limited benefit; hands-on coaching by the Assistant Director for Treatment, with the other clinicians and YCs, would be too time-consuming and problematic even for a fully staffed Taberg. The level of New York Model skill enhancement should involve most YDAs, which includes taking YDAs off-the-floor where they have no direct care and supervisory responsibility. Skill enhancement through a program of coaching, just like training, would require additional staff to be on duty to supplement the supervisory responsibilities of the YDAs receiving coaching. The Taberg clinicians and YCs, while talented individuals, have not had the time to develop an organized coaching strategy—where they could support each other in teaching the New York Model to staff—because of the challenge of staffing the next shift.

42. *e. Establish procedures and practices whereby each Facility Administrator or his or her designee will conduct weekly reviews of the use of force reports and videotaped incidents involving uses of force to evaluate proper techniques. Upon this review, staff who exhibit deficiencies in technique(s) shall be prohibited from using force until such staff receive documented instruction on the proper technique(s).*

COMPLIANCE

COMMENT: The PH Monitor’s review of multiple Restraint Packets, including the Video Review Forms (VRF), combines with administrative interviews and the conclusions from the Taberg QAI Report to support this finding. The policy and procedures exist, and there is a practice in place. An SG-18 or above facility administrator completes a review and logs the information and recommendation on the OCFS 2091 form, which is reviewed by the Facility Director.

42. *f. Train direct care staff in conflict resolution and approved uses of force that minimize the risk of injury to youth. The State shall only use instructors who have successfully completed training designed for use of force instructors. All training shall include each staff member’s demonstration of the approved techniques and require that each staff member meet the minimum standards for competency established by the method. Direct care staff skills in employing the method shall be periodically re-evaluated. Staff who demonstrate deficiencies in technique or method shall be re-trained at least every six months until they meet minimum standards for competency established by the method. Supervisor staff who are routinely involved in responding to incidents and altercations shall be trained to evaluate their subordinates’ uses of force and must provide evaluation of the staff’s proper use of these methods in their reports addressing use of force incidents.*

SUBSTANTIAL COMPLIANCE

COMMENT: Taberg has achieved sustained compliance with this paragraph. The PH Monitor's direct observations, document reviews, youth and staff interviews, and the findings from the Taberg QAI Report support this finding.

C. Emergency Response

43. *Emergency Response. The State shall create or modify and implement policies, procedures, and practices relative to staff use of personal safety devices (sometimes referred to as "pins") to call for assistance in addressing youth behavior. To this end, the State shall:*

43. a. *Immediately revoke the December 18, 2007 directive to staff of Finger Lakes to "push the pin."*

NOT APPLICABLE

43. b. *Create or modify policies providing staff with guidelines as to when a call for assistance is appropriate.*

COMPLIANCE

COMMENT: Taberg has achieved sustained compliance with this paragraph. The PH Monitor's direct observations, document reviews, youth and staff interviews, and the findings from the Taberg QAI Report support this finding.

43. c. *Create or modify policies and procedures regarding the appropriateness of the response to the situation presented.*

COMPLIANCE

COMMENT: Taberg complies with this paragraph. The PH Monitor's review of data, including multiple Restraint Packets and the Restraint Log from CSU, combines with the Special Incident data from Home Office to support this finding. The policy and procedures exist (PPM 3246.02); the training on the policies and procedures has occurred; and staff reports were consistent with the policy and procedures. The PH Monitor verified the existence of the response team chart in the CSU booth and the log entry of response descriptions in the CSU logbook.

43. d. *Require administrators of each Facility to submit an emergency response plan for review and approval in accordance with statewide policy.*

COMPLIANCE

COMMENT: Taberg has achieved sustained compliance with this paragraph. The PH Monitor's direct observations, document reviews, youth and staff interviews, and the findings from the Taberg QAI Report support this finding.

43. e. *Train all Facility staff in the operation of the above policy and procedures.*

COMPLIANCE

COMMENT: Taberg has achieved sustained compliance with this paragraph. The PH Monitor's direct observations, document reviews, youth and staff interviews, and the findings from the Taberg QAI Report support this finding.

D. Reporting and Investigation of Incidents

These paragraphs refer largely to the activities of the Special Investigations Unit (SIU) and the new Justice Center, officially implemented as of June 30, 2013. The Monitors appreciate the information provided by Home Office on the development and responsibilities of the Justice Center. The Monitors recommended that any implications for monitoring be resolved first by the Parties (Home Office and DOJ). As such, the Parties have agreed to the following:

In light of the fact that some of the responsibilities described in Agreement portion Section III.A, paragraph 44 have been reassigned from facility control to centralized state control (SIU and/or the Justice Center), the parties agree that Paragraph 77d termination shall not be conditioned on compliance with those subsections. Specifically, the subsections that are outside of facility control include: 44b, first sentence only, and 44d, e and h. This understanding in no way removes the requirements of paragraphs 44b (first sentence), or 44d, e or h from the Agreement, and substantial compliance with these paragraphs is still required for Termination pursuant to paragraph 77a and 77b.

On December 21, 2015, the District Court entered an order finding New York to be in compliance with the subparagraphs 44 (b) (d) (e) and (h), and paragraph 56 of the Settlement Agreement, and released the State from those portions of it. The assessments in this section take into account the Parties agreement and the District Court findings regarding Paragraph 44.

44. Reporting and Investigation of Incidents. The State shall adequately report, investigate, and address the following allegations of staff misconduct:

- i. Inappropriate use of restraints;*
- ii. Use of excessive force on youth; or*
- iii. Failure of supervision or neglect resulting in:*
 - (1) youth injury; or*
 - (2) suicide attempts or self-injurious behaviors.*

To this end, the State shall:

- 44. a. Create or modify and implement policies, procedures, and practices to require that such incidents or allegations are reported to appropriate individuals, that such reporting may be done without fear of retaliation, and that such reporting be done in a manner that preserves confidentiality to the extent possible, consistent with the need to investigate and address allegations.*

COMPLIANCE

COMMENT: Taberg has sustained compliance with this paragraph. The PH Monitor's direct observations, document reviews, youth and staff interviews, and the findings from the Taberg QAI Report support this finding.

- 44. b. Create or modify and implement policies, procedures, and practices providing that such incidents or allegations are promptly screened and which establish criteria for*

prioritizing Facility investigations based on the seriousness and other aspects of the allegation. There shall be a prompt determination of the appropriate level of contact between the staff and youth, if any, in light of the nature of the allegation and/or a preliminary investigation of the credibility of the allegation. The determination shall be consistent with the safety of all youth. The determination must be documented.

First Sentence: The Parties agree that this part of Paragraph 44b is outside the control of Taberg staff and is not included in the compliance findings for this facility.

Second through Fourth Sentences: COMPLIANCE

COMMENT: In those instances of allegations, the Facility Director makes the initial determination in conjunction with the supervisor (the Facilities Manager) and with OCFS regional staff supervised by another arm of OCFS that oversees the creation of safety plans. No problems or concerns were noted regarding a prompt determination or an appropriate level of contact.

44. c. *Create or modify and implement policies, procedures, and practices to require that a nurse or other health care provider will question, outside the hearing of other staff or youth, each youth who reports to the infirmary with an injury regarding the cause of the injury. If, in the course of the youth's infirmary visit, a health care provider suspects staff-on-youth abuse, the health care provider shall immediately take all appropriate steps to preserve evidence of the injury, report the suspected abuse to the Statewide Central Register of Child Abuse and Maltreatment ("SCR"), document adequately the matter in the youth's medical record, and complete an incident report.*

COMPLIANCE

COMMENT: Taberg has sustained its compliance with this paragraph. The clinic remains a Protection from Harm strength. Reviews of Post Restraint Examinations (PRE) were complete and comprehensive, and the number of restraint events noted in the CSU Restraint Log corresponded to the number of PREs. The procedures for the Post Restraint Examination remain the same.

The clinic experienced substantial turnover in the nursing staff. Many of the concerns expressed in the QAI Report appear to be a function of new employees working through procedural issues. At no point was there any evidence in any related files that the quality of care suffered. Nurses observe the frustration and sometimes anger of YDA staff as a result of the increase in hospital visits ordered by the medical staff. Transportation to the hospital often involves mandations, and the nursing staff acknowledges that this is one way youth can manipulate the system when staffing is stretched thin.

44. d. *Create or modify and implement policies, procedures, and practices to require that all allegations of staff misconduct described above are adequately and timely investigated by neutral, trained investigators and reviewed by staff with no involvement or personal interest in the underlying event.*
- i. *Such policies, procedures, and practices shall address circumstances in which evidence of injuries to youth, including complaints of pain or injury due to inappropriate use of force by staff, conflicts with the statements of staff or other witnesses.*

- ii. *If a full investigation is not warranted, then the reasons why a full investigation is not conducted shall be documented in writing. In cases where a youth withdraw an allegation, a preliminary investigation shall be conducted to determine the reasons for the withdrawal and, in cases where it is warranted, a full investigation will be conducted.*

The Parties agree that Paragraph 44d is outside the control of Taberg staff and is not included in the compliance findings for this facility.

- 44. e. *Create or modify and implement policies, procedures, and practices to require prompt and appropriate corrective measures in response to a finding of staff misconduct described above.*

The Parties agree that Paragraph 44e is outside the control of Taberg staff and is not included in the compliance findings for this facility.

- 44. f. *Provide adequate training to staff in all areas necessary for the safe and effective performance of job duties, including training in: child abuse reporting; the safe and appropriate use of force and physical restraint; the use of force continuum; and crisis intervention and de-escalation techniques. Routinely provide refresher training consistent with generally accepted professional standards.*

COMPLIANCE

COMMENT: Taberg has sustained compliance with this paragraph. The PH Monitor's direct observations, document reviews, youth and staff interviews, and the findings from the Taberg QAI Report support this finding.

- 44. g. *Create or modify and implement policies, procedures, and practices to require adequate supervision of staff.*

COMPLIANCE

COMMENT: Corrective systems exist that address staff supervision. However, staffing adequacy remains a threat to this fragile compliance because it involves additional stress on staff through mandations and working different units. Youth feel the stress also. This is such a recurrent problem at Taberg that the solution may need rethinking. The history of Taberg staffing suggests that expecting different outcomes are unlikely using the same remedial strategies. Much of the problem still centers on restricted duty due to injury, not being up-to-date on training, worker's comp leave, and FMLA, to name a few. For example, using the May 17, 2016 organizational chart, 43.5% of the YDA 3 staff were on some type of restriction or limited duty or leave status. Circumstances like these make coverage and assignment extremely stressful. They also contribute to behavior problems related to deteriorated Protection from Harm.

Staffing-related disruption has had an adverse effect on supervision, largely due to the small number of staff at the facility and the strain placed on supervisors during staff shortages. Disproportionate numbers of "green" YDAs combine with the presence of challenging youth to create situations where available veteran staff cannot adequately supervise, mentor, coach, or even intervene quickly enough to prevent problems. Hence, the strategic and appropriate but after-the-fact uses of DI, coaching, and supervisory

follow-up have increased as an attempt to reduce future of problems. Still, the frequency of these corrective actions needs to return to levels similar to those experienced by staff at the end of 2013. The difficulty in achieving adequate staff supervision has been confounded by instability in YDA and administrative staffing patterns.

Home Office states optimistically that Taberg is moving in the right direction due to the positive combination of staff members in the leadership positions. The Monitors had shared this optimism. YDA staff disagree. They point to the disruptive, sometimes chaotic, and frequent inconsistencies associated with the appointment, introduction, and assimilation of new staff. Many key YDAs continue to describe the YDA staff as a whole as new and "green." They express frustration with the Facility Director and Assistant Facility Directors because of perceived absences of consistency and predictability in the program. They have multiple requests for greater order, organization, consistency, predictability, and safety, so, on the surface, it looks as if FD Gonzalez is targeting the same issues as YDA staff. However, many YDAs remain frustrated at how long inconsistency and unpredictability have characterized Taberg.

44. h. The State shall utilize reasonable measures to determine applicants' fitness to work in a juvenile justice facility prior to hiring employees for positions at the Facilities including but not limited to state criminal background checks. The State shall update state criminal background checks and SCR clearances for all staff who come into contact with youth every two years.

The Parties agree that Paragraph 44h is outside the control of Taberg staff and is not included in the compliance findings for this facility.

III. MENTAL HEALTH MONITORING

Taberg staff are implementing the New York Model to address the complex variety of mental health and developmental needs of the residents. Most of the girls on both units have challenging behavior driven by trauma and many do not have a re-entry placements likely to provide permanency and adequate support to continue the progress they make at Taberg. The continuing lower Taberg population resulted in smaller, less stressful units and clinicians and YCs having more time for each girl. Even when there are 8 or 9 girls on a unit, it is a challenge to have sufficient trained staff to provide the 1:1 attention and support for self-calming necessary for this traumatized population—one clinician and one YC on a unit are insufficient.

Except for the 7-3 shift, seasoned YDAs are not in the majority. Most YDAs were working double shifts several times a week. As result, YDAs are often too inexperienced and too exhausted to provide the individual attention and early intervention necessary to prevent a girl from escalating. Furthermore, when there are special individual programs and a high rate of special watches, more staff are required.

Taberg is still lacking a substance abuse clinician, although a YC from the Syracuse CMSO who is a credentialed alcoholism substance abuse counselor (CASAC) is assigned to Taberg two days a week to lead 7 Challenges groups and coordinate individual substance abuse treatment with the clinicians. The Acting Assistant Director continued the tracking of evaluation and treatment of the residents' substance abuse.

Despite thorough re-entry preparation done by Taberg staff, the facility continues to have returnees. Many of these are DSS clients admitted to Taberg after years of disrupted placements. After making progress at Taberg, residents have difficulty forming trusting relationships with treatment staff in step-down facilities.

At each site visit, the MH Monitor meets with the coaching team—in the past it has consisted of clinicians and YCs who were coaching YDAs on the New York Model. As a result of the leadership of the Acting Assistant Director of Treatment, at the May 2016 site visit, the largest coaching team assembled including three “lead YDAs.” Several participants came in on their day off. They discussed how they coach staff on relationship building with each girl, understanding what is behind each girl’s behavior and seeing the effects of a girl’s trauma on her emotional regulation and relationships. They not only model these approaches, but they follow-up with staff to explain why they did what they did with a girl. Coaching is a crucial element of training and retention of staff, and the coaches require a monthly continuing support group. This support group and time for them to provide staff training (in addition to coaching) has not been possible because there is a ceiling on the number of staff who can be on duty on every shift.

The Acting Assistant Director of Treatment gave a sophisticated presentation on specialized programs for Taberg residents whose high needs are connected to elevated rates of restraints and suicide watches. She analyzed in detail the effects of trauma on emotional regulation and the resident’s relationship skills and ability to rely on staff for three girls, with one girl having the additional overlay of cognitive limitations. She thoroughly examined what was behind each girl’s out-of-control and self-harming behavior, and what will make it possible for her to overcome her fear and get into a safe, caring relationship with staff (given her family and placement history of rejection and loss). Her documentation of one resident’s “wall against relationships” and another resident’s symptoms of complex trauma were instructive. She described the ups and downs of being engaged in trauma recovery unique to each of the three residents. This led to a discussion of how to (a) understand a girl’s survival-based self-regulation; (b) hold a girl emotionally without a restraint, and (c) provide safety given self-harming tendencies in traumatized residents. The MH Monitor recommended that her presentation be modified for training for all staff, with specific guidance for how staff can apply this analysis to tailor their responses to each resident. The elements of the specialized programs for these high needs girls are what the New York Model strives for in daily unit programming for all residents. Dr. Goel’s framework can be used each time Taberg staff develop a specialized program for a high needs girl. They must design specifically how to address her attachment difficulties, teach her emotional regulation, and provide her with success experiences given her cognitive and adaptive skill limitations. This requires providing sufficient attention to support self-calming throughout the day so a girl does not escalate. The implications of this discussion were:

- Taberg must function as an integrated program.

It is not treatment (or clinical) and program. All staff, starting with leadership, must change the way they talk to make it clear that every staff person is part of each girl’s trauma recovery. Safety, consistency, and

staff retention cannot be separated from relationship-building. Distress tolerance and emotion regulation are the Taberg program.

- Taberg must have enough staff to provide specialized programs for some residents

This requires extra clinical coverage to train and coach, additional YC and YDA time for 1:1 attention, and intensified school support.

Taberg is currently staffed for two units of traumatized girls and staffing must increase—without relying on mandating—recognizing that specialized individual programs are likely to be necessary for two residents at most times.

For more than a year, the MH Monitor has documented uneven progress toward compliance with the Settlement Agreement. The biggest obstacles to New York Model implementation at Taberg remain consistent leadership, the shortage of clinicians and YCs and insufficient seasoned YDAs on all shifts to meet the needs of two units of traumatized girls plus high-needs girls requiring intensive support.

45. *The State shall provide adequate and appropriate mental health care and treatment to youth consistent with generally accepted professional standards as follows:*

46. *Behavioral treatment program. The State shall provide an integrated, adequate, appropriate, and effective behavioral treatment program at the Facilities. To this end, the State shall:*

46a. *Create or modify and implement policies, procedures, and practices for an effective behavioral treatment program consistent with generally accepted professional standards and evidence-based principles. The behavioral treatment program shall be implemented throughout waking hours, including during school time.*

COMPLIANCE

The New York Model and training comply with the requirements of 46a, and 46a is being implemented into practice at Taberg.

Policy PPM 3243.33 (revised, May 2015) entitled “Behavioral Health Services” responds to the Settlement Agreement by describing treatment that is “child and family-focused, culturally competent, developmentally appropriate, trauma informed, empirically validated and well integrated with other facility and community services” which complies with 46a.

The QAI review of the New York Model implementation at Taberg examined residents’ records for integrated assessments, psychiatric evaluations, support plans, diagnoses, psychiatric contact notes, medication, family outreach, suicide response, substance abuse services and release planning, staff and residents were interviewed, and support teams, Mental Health Rounds, and groups were observed in the QAI review.

46b. *Create or modify and implement policies, procedures, and practices to require that mental health staff provide regular consultation regarding behavior management to direct care staff and other staff involved in the behavioral treatment program.*

COMPLIANCE

The New York Model and BBHS procedures regarding Mental Health Rounds, support teams, and the coaching role of mental health staff comply with the requirements of 46b.

Mental health staff at Taberg were observed complying with 46b.

46c. Create or modify and implement policies, procedures, and practices to regularly assess the effectiveness of the interventions utilized.

COMPLIANCE

The New York Model, BBHS procedures and OCFS Psychiatry Manual regarding Mental Health Rounds, and support teams comply with the requirements of 46c.

Through support teams and Mental Health Rounds Taberg staff are complying with 46c on an individual basis. The Taberg Integrated Assessment, IIP, Support Plan, and contact notes by the psychiatrist, clinicians, YCs and CMSO were accessible on JJIS and comply with 46c. JJIS is designed to capture how a strengths- based, trauma-responsive approach is being implemented with each resident and tracks the diverse interventions of the New York Model. JJIS makes it possible to document practice according to the procedures that comply with several mental health paragraphs in the Settlement Agreement and allows for the regular assessment of the effectiveness of interventions required by 46c.

The MH Monitor met with staff to discuss the Taberg TIC which meets once/month, led by the Director and Assistant Directors. A report is submitted monthly to Home Office. Every other month the Taberg leadership team has a telephone review of the TIC with Home Office to request additional supports. The topics discussed at the Taberg TIC have been reviewed in previous site visits. Taberg has added inviting a resident to come in at the end of the TIC to talk about resident concerns and propose changes. Taberg has moved the incident video review from the TIC to the monthly all-staff Town Hall. The MH Monitor inquired whether Taberg had considered collapsing the TIC with the all-staff Town Hall (covering the TIC topics at the Town Hall) since more staff attend the Town Hall. Instead of continuing to delay training, as they have for more than a year until Taberg is “fully staffed,” the MH Monitor again encouraged the Taberg leadership to modify NY Model training to ensure confidence in skills and teamwork among staff.

46d. Explain the behavioral treatment program to all youth during an orientation session, setting forth Facility rules and the positive incentives for compliance as well as the sanctions for violating those rules. The rules for the behavioral treatment program shall be posted conspicuously in Facility living units.

COMPLIANCE

The Facility Admission and Orientation policy (PPM 3402.00 Limited Secure and Non-Secure Facilities Admission and Orientation and PPM 3402.01 Secure Facilities Admission and Orientation with the Admission Checklist, Orientation Checklist and Facility Classification forms) and PPM 3443.00 “Resident Rules” (renamed “Youth Rules”) are consistent with the New York Model and comply with 46d.

Taberg staff provide orientation to new residents in compliance with 46d.

On Site Observations Regarding Paragraph 46a-d (5/16)

Paragraph 46 of the Settlement Agreement requires an effective program to meet the needs of residents. OCFS does not have to implement the New York Model to comply with Paragraph 46, but OCFS is choosing to comply with Paragraph 46 with the New York Model.

The New York Model has been implemented at Taberg. Taberg staff continue to work diligently to achieve trauma-responsive, relationship-driven, culturally competent, and strengths-based teamwork to meet residents' complex needs. All the girls at Taberg have long histories of trauma and troubled behavior, and staff dedication to teaching residents emotional regulation is commendable. Integrated assessments and support plans continue to improve. Support teams are excellent, although they seldom include YDAs. The Daily Achievement System (DAS) has been improved and the phase system is in place.

The MH Monitor observed Mental Health Rounds in which all the girls at Taberg were discussed. The three clinicians, several YCs, the psychiatrist, a nurse, and the education coordinator participated. Several girls had Red Flags in the previous week and one girl was seen as needing a Red Flag because of her mother's anger on the phone. Several girls were described as anxious about leaving Taberg, and the Mental Health Rounds discussion was how to support them so their behavior does not deteriorate. One girl's depression was concerning after she chose to discontinue her anti-depressant and appeared to be shutting down over issues with her mother. Another girl had been coping with her mother's death while she has been at Taberg, and the group discussed modifying the phone rules for her so she can get more support from her sister. One girl who arrived three weeks before the site visit appeared to be psychotic and the psychiatrist discussed the dilemma about hospitalizing her. Her mother would not consent to an antipsychotic. Her program had been modified because she has high anxiety and would not go outside; she had urgent dental problems and an unknown back problem, but a sedative would have to be ordered to get her in the van to go to doctors' offices. Since her arrival the records from Cayuga where she came from had been requested, but they had not released them and Home Office was asked to assist. A week after the site visit, she was admitted to Pinefield Psychiatric Center where she remained at the writing of this report. In the meantime, OCFS obtained a court order to consent to her psychiatric medication over the objection of her mother.

The QAI Review of Taberg (April, 2016) commended the observed Mental Health Rounds: "The meeting was a collaborative process and engaged all members of the team. The dialogue about each youth was strength-based while also focused on problem solving and planning. Although there was a diverse group of professional staff in the meeting, the addition of a programmatic staff (YDA) would further improve the process. The information detailed by the staff in the meeting would be helpful and validating to the YDAs who work with the youth."

The MH Monitor observed a strong intact team meeting convened by the YC and attended by seven YDAs, five education staff, the Acting Assistant Director for Treatment and another clinician. They reviewed one resident's IIP changes, reported on her progress, and her YC and clinician described how to work together to help her move gradually back

into the program. They planned a Red Flag meeting for a resident with a lot of anxiety about going home, described as “a totally different kid from last week. She’s saying, ‘If I catch a code, I can stay here.’” They also discussed the other residents on the unit. The intact team reviewed the revised DAS and two suggestions were made: have the DAS schedule conform to shifts so staff are not recognizing behavior that occurred when they were not on duty; making the DAS morning period end at the shift end would be easier because incentives are announced at 5:30. A new challenge for the residents on the unit was: if they can achieve 100% participation in school and no codes or restraints for a week, they will get pizza.

The MH Monitor observed a DBT group on one unit and a Sanctuary group on another unit, both led by clinicians with at least one YDA participating. While in both groups there were girls who did not speak up, there was active involvement of others. The residents responded well to an activity in each group.

Following the April, 2015 and November, 2015 site visits, the MH Monitor recommended steps to reduce the inappropriate placement of long-term DSS and OPWDD children as well as returnees to Taberg. In the past year, Home Office worked with CMSOs and stepdown programs. The Acting Assistant Director for Treatment intensified re-entry planning with residents to prepare each one to have a trusting relationship at a stepdown placement or in the community. Despite these and Home Office efforts to educate outside entities regarding inappropriate admissions and returns, OCFS must accept youth who are placed by the court. Embracing the idea that the Taberg population will always include residents who have severe developmental disabilities and/or ineffectively treated long-term histories of complex trauma requires substantially increased staffing resources. The high demands of residents with severe developmental disabilities and/or histories of complex trauma as well as the needs of traumatized delinquents who are first-timers at Taberg require extraordinary teamwork among YDAs, YCs, clinicians, leadership and other staff. Until all the clinical positions are filled, seasoned YDAs are in the majority, and there are greatly reduced mandated double shifts, it will be difficult for Taberg to comply with the Settlement Agreement. The allocation of positions for clinicians and YCs is not sufficient for the size and complexity of the Taberg population. Each clinician is responsible for high needs residents, plus new residents requiring Integrated Assessments, plus residents requiring considerable work to arrange re-entry services. These are all time-consuming clinical responsibilities in addition to individual therapy, group therapy, family work, support teams, special watch evaluations, and JJIS documentation. For all staff to collaborate on supporting residents to develop distress tolerance and emotional regulation so they can be successful in re-entry requires clinicians who not only have the time to provide individual, group and crisis treatment but also to coach staff to practice and teach DBT and Sanctuary skills.

The Monitors met a new psychologist at Taberg at the November, 2015 site visit, and the arrival of another psychologist in the spring, 2016 promised to get clinical caseloads to a manageable level given the high needs of the residents. Unfortunately the newest psychologist only remained a month and shortly after the May, 2016 site visit, the Acting Assistant Director for Treatment announced her resignation. It was impossible for two clinicians to do all the individual, family and group treatment, assessments, support

teams, Red Flag meetings, specialized programs for residents, documentation, and staff coaching for the two units with an Acting Assistant Director for Treatment. The loss of the Acting Assistant Director for Treatment who has remarkable skills in working with residents and coaching staff will be challenging for Taberg.

QAI reviews at Taberg have raised repeated concerns about documentation of clinical services in JJIS. Taberg staff have responded with improvements in documentation, but also have indicated that they have insufficient time to do their clinical work and consistently document every individual contact with a resident. At the 5/16 site visit, the MH Monitor observed that all the residents are assigned to a clinician, and the clinicians spoke knowledgeably about their histories and needs. However, it appeared that all the individual and family work done by the clinicians was not documented in the clinical contact notes. During 4/1/16-4/30/16, clinical contact notes showed only 9 girls having Support Team meetings; of these support teams, individual therapists were only listed as participating in 5 (some support teams had only the YC and CMSO). Further checking of JJIS by Taberg staff found that "all youth that are current in our building and that were placed during that month had a support team meeting. Several of the meeting notes were not finalized within JJIS until May/June (we are developing an action plan to ensure they are done within 7 days of the support team meeting)." During 4/1/16-4/30/16, clinical contact notes showed that one clinician saw one resident for individual treatment, one clinician saw three residents for individual treatment, and the other clinician saw six residents for individual treatment. Individual treatment ranged from one to four sessions during the month. Although both the residents whose support teams were observed by the MH Monitor (described later in this report) received impressive family treatment by their clinician, contact notes for 4/1/16-4/30/16 did not reflect family contacts by their clinicians. The Behavioral Health Services policy (PPM 3243.33, revised 5/21/15) describes electronic reporting in the Juvenile Justice Information System (JJIS) and requires twice monthly family contact by clinicians. If the clinical contact notes for April, 2016 are accurate, the two clinicians (other than the Acting Assistant Director for Treatment) were not meeting the need of most residents for weekly individual therapy. If the clinical contact notes do not reflect actual individual and family work, it appears to be a reflection of the clinicians having insufficient time for documentation.

The MH Monitor observed IIPs (Individual Intervention Plans) in the reviewed Taberg records; support plans indicated the IIP has been reviewed. IIPs were reviewed at the observed support team meetings and intact team meeting. Taberg clinicians are preparing IIPs that are instructive for staff.

The MH Monitor observed a Pre-Shift Briefing with a large group assembled in the main hallway inside the entry. There was brief clinical presentation of two girls who were having difficulty, one of whom was on a special individual program.

On the DAS form for two days during the site visit, one resident on a special individual program whose support team the MH Monitor observed, had 25 achievements for two days. Another resident who had reached application phase and whose support team the MH Monitor observed had two difficult days, with 11 out of 25 achievements each day, on one day for two code yellows and cursing. A third resident received 22 out of 25

achievements because of cursing, not accepting staff direction, flipping chairs and standing on a table, but the next day she had 25 achievements.

FUTURE MONITORING

It is essential for Taberg to have all clinician positions filled, a skilled Assistant Director for Treatment, and a majority of seasoned YDAs, with no staff having more than one double shift per week in order to continue to demonstrate compliance with Paragraph 46.

Having sufficient clinicians is essential for residents to be seen in individual therapy to provide the trauma treatment required. The MH Monitor will review continued compliance with Paragraph 46 in part by whether the clinical contact notes in JJIS document weekly individual therapy for most residents, twice monthly family contacts by the clinician, and a monthly support team meeting involving the clinician for all residents.

Taberg must have enough staff to provide specialized programs for some residents. This requires extra clinical coverage to train and coach, additional YC and YDA time for 1:1 attention, and intensified school support. Taberg is currently staffed for two units of traumatized girls and staffing must increase—without relying on mandating—recognizing that specialized individual programs are likely to be necessary for two residents at most times.

The MH Monitor will observe the facility's use of information to regularly assess the effectiveness of interventions for all residents, with attention to teaching self-calming to residents who escalate quickly, and modifying support plans. Coaching staff on relationship building with each girl, understanding what is behind each girl's behavior, and seeing the effects of a girl's trauma on her emotional regulation and relationships should occur both in individual discussions and by the inclusion of YDAs in Mental Health Rounds and support teams.

47. Mental health crises. The State shall provide any youth experiencing a mental health crisis with prompt and adequate mental health services appropriate to the situation. To this end, the State shall:

47a. Train all appropriate staff, including direct care staff, on appropriate positive strategies to address a youth's immediate mental health crisis, including a crisis manifesting in self-injurious behavior or other destructive behavior. Such strategies should be utilized in an effort to stabilize and calm the youth, to the extent possible, while awaiting the arrival of a qualified mental health professional. Staff shall not resort to uses of force, including restraints, except as provided in paragraphs 41 and 42 [of the Settlement Agreement].

COMPLIANCE

The CPM policy and training comply with the requirements of 47a.

The revised PPM 3247.60 "Suicide Risk Reduction and Response in OCFS Facilities" (9/15/14) clarifies that if a youth is in bed, but not necessarily asleep, doorway rather than strict "3 feet away" supervision is appropriate. PPM 3247.60 complies with the requirements of 47a.

Staff at Taberg were observed complying with 47a.

- 47b. *Create or modify and implement policies, procedures, and practices for contacting a qualified mental health professional outside of regular working hours in the event of a youth's mental health crisis or other emergency situation.*

COMPLIANCE

A 3/12 memorandum entitled "Contacting Mental Health Professionals Outside of Regular Work Hours" (linked to the Behavioral Health Services policy (PPM 3243.33)) complies with 47b and indicates that "each of the facilities reports having an established procedure in place." Updates regarding the staff person to be contacted for mental health crises after hours at Taberg are decided at the facility level and are maintained at the Central Services Unit (CSU), which complies with 47b.

- 47c. *Require that any youth who experiences a mental health crisis and resorts to maladaptive coping strategies, such as self-injurious behavior, is referred for mental health services following the resolution of the immediate crisis. A qualified mental health professional shall develop a crisis management plan in conjunction with the youth and his or her other mental health service providers. The crisis management plan shall specify methods to reduce the potential for recurrence through psychiatric treatment, treatment planning, behavioral modification and environmental changes, as well as a strategy to help the youth develop and practice positive coping skills. Such services shall continue throughout the duration of the youth's commitment to the Facility.*

COMPLIANCE

The revised PPM 3247.60 "Suicide Risk Reduction and Response in OCFS Facilities" (3/23/16) complies with the requirements of 47c: "From the point of entry into the DJJOY system, throughout all areas of youth programming and extending to the transition back to the community, staff must be continually aware of suicide risk factors and the possibility of adolescent suicide or serious self-harm. Further, when evidence or information arises about the possible suicidal ideation, intent, or behavior of a particular youth, OCFS will respond effectively to maintain the physical safety and emotional well-being of the youth. A youth shall remain on enhanced supervision status until a mental health clinician authorizes modification of the enhanced supervision or removes a youth from special supervision status based on a clinical assessment."

On Site Observations Regarding Paragraph 47a-c (5/16)

The MH Monitor observed completed ISO 30s in Taberg residents' records.

Taberg had 22 suicide watches between 3/1/16-3/31/16, which is less than 26 in March, 2015 and October, 2015 studied by the MH Monitor for the last two site visits. Between 3/1/16-3/31/16, six residents had suicide watches (as compared to 12 in 10/15). KS had seven; CG had seven; another resident had three, two had two and one had one suicide watch during the month. Five of the 22 suicide watches were for eight hours or less, 13 for one day, and four for 2 days. Completing mental health assessments for suicide five days a week, and then re-evaluating each resident, is a major time commitment for clinical staff.

Between 3/1/16-3/31/16, two residents each had one personal safety watch, about the same as 10/15. Between 3/1/16-3/31/16, there were 11 arms length supervisions, three times that of 10/15. Seven residents had ALS, one three times, two twice, and four once; all were for one day. Ten residents at some point in the month were on personal safety watch, ALS, or Suicide Watch, and the number of special watches at Taberg, although decreased, remains concerning.

The QAI Review of Taberg (April, 2016) reported that between April 1, 2015 and March 31, 2016, there were 298 Self-Harm Behavior RIRs as compared to 263 for the year before. Tour 3 had 56% of these RIRs as compared to 37% by Tour 2, which was a reduction in the proportion of Tour 3 RIRs.

The QAI Review of Taberg (April, 2016) once again raised concerns about documentation of suicide watch, particularly in the logs but also in clinicians' records. In three cases reviewed by QAI, thoughts of self-harming were addressed in support plans and support team meetings. In one example of a resident on suicide watch five times, "there was no documented Red Flag meeting held after the youth had two instances of SW. However, one contact note was found that demonstrated the clinician made a plan with the youth to help reduce further reoccurrences: "Treatment will continue along the same lines moving in the direction of lessening the impulse toward self-injury and having recourse to suicidal ideation, and encouraging more positive and adaptive strategies." For a resident on suicide watch four times, a contact note demonstrated the clinician made a plan with the youth to help reduce further reoccurrences: "it appears that the youth used suicide watch as an expression of bringing things to the extreme without having any actual suicidal impulses and without any thoughts of wanting to die. Provided support to stay, as much as possible, in the here and now." For another resident on suicide watch four times, the QAI report commented, "the youth's Support Team Meeting was held closely to suicidal ideations and there were interventions listed for the youth to learn and practice emotional regulation skills and to better handle situations to avoid crises."

It would be useful before the fall, 2016 Taberg site visit for Home Office to repeat the analyses of intakes (especially returnees), abuse allegations, restraints, and suicide RIRs per 100 care days at Taberg for November, 2015-October, 2016 (previously done for October, 2013-March, 2015) including the percentage of restraints that occurred when staff intervened to remove a dangerous item (e.g., an article of clothing or sharp object) from a girl threatening to hurt herself.

No residents were admitted to a psychiatric hospital from Taberg in the six months before the May, 2016 site visit.

FUTURE MONITORING

The MH Monitor will observe staff teaching youth self-calming and providing effective de-escalation and chain analysis to prevent mental health crises of girls at Taberg.

The MH Monitor will review documentation of suicide assessments and rate of Suicide Watch, PSW, and ALS at Taberg.

48. *Evaluation of mental health needs. The State shall require that youth with mental health needs are timely identified and provided adequate mental health services. To this end, the State shall:*
- 48a. *Create or modify and implement policies, procedures and practices to require that each youth admitted to a Facility is comprehensively screened by a qualified mental health professional in a timely manner utilizing reliable and valid measures. The State shall require that any youth whose mental health screening indicates the possible need for mental health services receives timely, comprehensive, and appropriate assessment by a qualified mental health professional and referral when appropriate to a psychiatrist for a timely mental health evaluation.*

COMPLIANCE

The BBHS Facility Clinical Procedures described the Integrated Assessment, which complies with 48a.

Taberg records reflect that residents are seen soon after admission by a mental health professional who completes the ISO-30 and begins the Integrated Assessment. Youth who arrive on psychiatric medication or who are referred to the psychiatrist by facility staff are seen soon thereafter, documented in a psychiatric evaluation or psychiatric contact note.

The MH Monitor observed completed and timely Integrated Assessments in the Taberg records that demonstrated compliance with 48a.

- 48b. *Require that any youth whose mental health screening identifies an issue that places the youth at immediate risk is immediately referred to a qualified mental health professional. The qualified mental health professional shall determine whether assessment or treatment is necessary. A determination to transfer a youth to a more appropriate setting on other than an emergency basis shall require consultation with a committee designated by OCFS' Deputy Commissioner for Juvenile Justice and Opportunities for Youth (DJJOY) or his or her designee or successor. Such committee may include qualified mental health professionals at OCFS' central office. If a determination is made that the youth should be transferred to a more appropriate setting, the State shall immediately initiate procedures to transfer the youth to such a setting.*

COMPLIANCE

The procedure for referring a youth for evaluation to a qualified mental health professional is in place. Memos in 2/12 and 12/12 described the procedure for referral of youth to a committee for a mental health placement (linked to the Behavioral Health Services policy, PPM 3243.33) and complies with 48b.

- 48c. *Require that assessments take into account new diagnostic and treatment information that becomes available, including information about the efficacy or lack of efficacy of treatments and behavioral interventions.*

COMPLIANCE

The Integrated Assessment form complies with 48c. The OCFS Psychiatry Manual (3/14, updated 10/14) complies with the requirements of 48c.

Completing thorough Integrated Assessments is a time-consuming expectation of clinicians. Taberg staff are completing the Integrated Assessment for every resident.

Taberg staff are including in Integrated Assessments: (a) information from a review of available past records, including mental health, hospital, residential, school, substance abuse and other community assessments and reports; (b) a trauma history, symptoms of trauma and how trauma appears to be affecting the resident's behavior; (c) history of substance use and how it may be related to behavior and trauma; and (d) learning disabilities and how they appear to be affecting the resident's behavior. Continuing to achieve universal high quality in the Integrated Assessments is necessary for sustained compliance with Paragraph 48.

Efficacy of interventions is discussed in Mental Health Rounds and psychiatric contact notes.

48d. Create or modify and implement policies, procedures and practices to require that for each youth receiving mental health service, the youth's treating qualified mental health professional(s), including the treating psychiatrist, if applicable, develop a consistent working diagnosis or diagnoses. The diagnosis or diagnoses shall be updated uniformly among all qualified mental health professionals providing services to the youth.

COMPLIANCE

The OCFS Psychiatry Manual (3/14, updated 10/14) complies with the requirements of 48d.

One psychiatrist is at Taberg for 10 hours per week, which allows little time for participation in support team meetings or Red Flag meetings, although he discusses diagnosis with clinicians and YCs in Mental Health Rounds and individual consultations.

48e. Create or modify and implement policies, procedures, and practices to require that both initial and subsequent psychiatric evaluations are consistent with generally accepted professional standards. Initial evaluations should be legibly written and detailed, and should include, at a minimum, the following information for each youth evaluated: current mental status; history of present illness; current medications and response to them; history of treatment with medications and response, including adverse side effects or medication allergies; social history; substance abuse history; interviews of parents or guardians; review of prior records; and explanation of how the youth's symptoms meet diagnostic criteria for the proffered diagnosis or diagnoses.

COMPLIANCE

Psychiatric Contact Notes comply with 48e and were completed in Taberg records reviewed by the MH Monitor.

The OCFS Psychiatry Manual (3/14, updated 10/14) complies with the requirements of 48e.

OCFS has incorporated the DSM-5 in JJIS and provided information for psychiatrists and clinicians. BBHS released a BBHS Sharepoint site including a variety of resources for psychiatrists and clinicians.

On Site Observations Regarding Paragraph 48a-e (5/16)

In May, 2016, the 11 Taberg residents prescribed psychiatric medication had the following diagnoses (several had more than one):

- ADHD
- Anxiety (2)
- Depression
- Disruptive Mood Dysregulation Disorder (2)
- Insomnia (5)
- Mood Disorder (2)
- PTSD
- Unspecified Trauma Disorder

The requirement of Paragraph 48 is to “develop a consistent working diagnosis(es).” OCFS provides clinical guidelines in the BBHS Facility Clinical Procedures and the Psychiatry Manual (3/14, updated 10/14). On 1/29/14 the Director of BBHS sent a memo to all OCFS psychiatrists indicating that “OCFS has committed to having a uniform working diagnosis for each youth receiving mental health services. Changes in a youth’s diagnosis should result from an updated evaluation or as a result of the support/treatment team discussion. The treating clinician and the psychiatrist (with input from the mental health rounds team) will develop a single working diagnosis, which is reflected in JJIS and in the support plan.”

The Taberg psychiatrist continues to work one day/week. During 4/1/16-4/30/16, the psychiatrist was at Taberg four days; during the month he saw 11 residents, four of them once, five of them twice, and two three times. Once weekly Mental Health Rounds are scheduled for the day he is at Taberg. One new resident at the end of the month may have occupied most of his hours that day because she appeared psychotic, her mother did not consent to antipsychotic medication, and she had acute health problems which would have required sedation to transport her to treatment (described in the section of this report on the observed Mental Health Rounds). Not only was the psychiatrist evaluating her and consulting with Taberg staff regarding a diagnosis, but he was also trying to contact the psychiatrists at her previous residential placements (whose reports were not available to Taberg) and the admitting psychiatrist at the psychiatric hospital to which she was later sent.

Two examples of the Taberg psychiatrist participating in support teams since the previous site visit were provided (in November, 2015), although his contribution and why these residents were the support teams in which he participated were not noted. A 13-year old resident at Taberg for four months was described as having continuing difficulty with regulating her emotions: “she has exhibited threatening behavior, however, has been able to use some skills to avoid physically assaulting staff, spitting, biting, and/or stripping. Even while refusing she reports that she is trying and does not fully know how to calm down. She commented: ‘I have attachment disorder with my Mom and I take meds so I can

forget about it.” The diagnoses listed in her support plan were PTSD, ADHD, Unspecified bipolar disorder, conduct disorder, cannabis disorder, and alcohol use disorder. Under Goal #2 (“I want to go home to my Mom”), there is no mention of medical staff assisting her in understanding her diagnoses, reason for taking prescribed medication, and understanding that she had self-medicated with her substance use. The other resident, age 14 and also at Taberg for four months, was described as being in turmoil regarding discharge to her mother and having “risky and dangerous behaviors” when she ran away from home previously. It was noted that she does not want to continue with psychiatric medicine when she leaves Taberg although “her mother is insisting.” Whether the psychiatrist addressed this concern with the youth and her mother in the support team meeting was not indicated. Her diagnosis was unspecified depressive disorder, PTSD, cannabis use disorder, and alcohol use disorder.

FUTURE MONITORING

The MH Monitor will continue to review Integrated Assessments, particularly for the inclusion of (a) a thorough trauma history and how trauma appears to be affecting the resident’s behavior, (b) substance abuse history and how it appears to be affecting the resident’s behavior; and (c) cognitive impairments (including language and executive function difficulties) and how they appear to be affecting the resident’s behavior.

The MH Monitor will continue to review consistency in diagnostic practices and efforts to routinely arrive at agreement about what is behind a resident’s behavior and how staff can effectively respond.

49. Use of psychotropic medications. The State shall require that the prescription and monitoring of the safety, efficacy, and appropriateness of all psychotropic medication use is consistent with generally accepted professional standards. To this end, the State shall:

49a. Create or modify and implement policies, procedures and practices to require that any psychotropic medication is: prescribed only when it is tied to current, clinically justified diagnoses or clinical symptoms; tailored to each youth’s symptoms; prescribed in therapeutic amounts, as dictated by the needs of the youth served; modified based on clinical rationales; documented in the youth’s record with the name of each medication; the rational for the prescription of each medication, and the target symptoms intended to be treated by each medication.

COMPLIANCE

The revised PPM 3243.32 entitled “Psychiatric Medicine” (9/15/14) complies with 49a: “When medicine is indicated, the diagnosis/diagnoses, the symptoms targeted by the medicine and the rationale for use of each medicine shall be clearly stated in the psychiatrist’s evaluation and contact notes located in the Juvenile Justice Information System (JJIS). Copies of the psychiatrist contact notes shall be included in the Mental Health section of the youth’s medical record.”

The OCFS Psychiatry Manual (3/14, updated 10/14) complies with the requirements of 49a.

The Psychiatric Contact Note links diagnosis with the medication prescribed. The requirement of 49a is to state “the target symptoms intended to be treated by each medication.” OCFS provides clinical guidelines in the BBHS Facility Clinical Procedures and the Psychiatry Manual (3/14). The Director of BBHS sent a memo to all psychiatrists on 1/29/14 reminding them of the expectation that they clearly identify in their contact notes the target symptoms and rationale for each medication being prescribed.

The MH Monitor observed the Taberg psychiatrist explaining the rationale for prescribing particular medication to treat a resident’s symptoms during Mental Health Rounds.

49b. Create or modify and implement policies, procedures and practices for the routine monitoring of psychotropic medications, including: establishing medication-specific standards and schedules for laboratory examinations; monitoring appropriately for common and/or serious side effects, including requiring that staff responsible for medication administration regularly ask youth about side effects they may be experiencing and document responses; establishing protocols for timely identification, reporting, data analyses and follow up remedial action regarding adverse drug reactions; monitoring for effectiveness against clearly identified target symptoms and time frames; requiring that such medications are used on a time-limited, short-term basis where such use is appropriate, and not as a substitute for adequate treatment of the underlying cause of the youth’s distress; requiring that youth are not inhibited from meaningfully participating in treatment, rehabilitation or enrichment and educational services as a result of excessive sedation; and establishing protocols for reviewing such policies and procedures to require that they remain consistent with generally accepted professional standards.

COMPLIANCE

The revised PPM 3243.32 “Psychiatric Medicine” (9/15/14) complies with 49b.

The OCFS Psychiatry Manual (3/14, updated 10/14) complies with the requirements of 49b.

The MH Monitor reviewed Psychiatric Contact Notes by the Taberg psychiatrist in JJIS indicating diagnosis, efficacy, side effects, and the rationale for continuing, changing or discontinuing each medication in compliance with 49b.

The revised PPM 3243.32 “Psychiatric Medicine” (9/15/14) required: “The use of three or more medicines simultaneously to treat one youth is discouraged and may only occur following consultation from the supervising psychiatrist. Use of two medicines from the same class is also discouraged.” A JJIS note in the youth’s record documents the consult.

Discussion with the supervising psychiatrist was reflected in the Psychiatrist Contact Note for a Taberg resident prescribed four psychiatric medicines.

Forms to track laboratory findings and side effects comply with 49b and were completed in Taberg records.

- 49c. *Require that the results of laboratory examinations and side effects monitoring are reviewed by the youth's psychiatrist, if applicable, and that such review is documented in the youth's record.*

COMPLIANCE

The revised PPM 3243.32 "Psychiatric Medicine" (9/15/14) complies with 49c: "The psychiatrist, psychiatric nurse practitioner and mental health clinician will assess youth for beneficial effects of medicine on the target symptoms. Clinicians meet with youth weekly for scheduled visits. Prescribers meet with youth monthly, and more often when clinically indicated. Each youth prescribed psychiatric medicines shall be assessed by the psychiatrist or psychiatric nurse practitioner every 30 days or more frequently when clinically indicated."

The OCFS Psychiatry Manual (3/14, updated 10/14) complies with the requirements of 49c.

Forms to track laboratory findings and side effects comply with 49c and were completed in Taberg records.

On Site Observations Regarding Paragraph 49a-c (5/16)

In May, 2016, 11 of the 16 Taberg residents had psychiatric diagnoses and were prescribed psychiatric medication:

- ADHD Vyvanse
- Anxiety Seroquel
- Anxiety Zoloft
- Depression Prozac
- Disruptive Mood Dysregulation Disorder Abilify
- Disruptive Mood Dysregulation Disorder Clonidine
- Disruptive Mood Dysregulation Disorder Geodon
- Disruptive Mood Dysregulation Disorder Intuniv
- Insomnia Lutra
- Insomnia Melatonin (3)
- Insomnia Trazodone
- Mood Disorder Clonidine
- Mood Disorder Geodon
- Mood Disorder Lamital
- Mood Disorder Zoloft
- PTSD Clonidine
- PTSD Intuniv
- PTSD Perphenazine
- Unspecified Trauma Disorder Clonidine
- Unspecified Trauma Disorder Perphenazine

In May, 2016, one Taberg resident was prescribed three psychiatric medications (Clonidine, Perphenazine, and Vyvanse). Two Taberg residents were prescribed four

psychiatric medications (Geodon, Lamictal, Clonidine and Melatonin; Clonidine, Intuniv, Zoloft and Perphenazine).

The MH Monitor observed completed forms for laboratory and clinical monitoring of residents prescribed psychiatric medication (Weight and Vital Signs Flow Sheet and Psychiatric Medicine Monitoring Flow Sheet) in the Taberg records.

The MH Monitor observed documentation of diagnosis, dosages, and administration of psychiatric medication in the individual records at Taberg.

FUTURE MONITORING

The MH Monitor will review consistency of tracking diagnosis, symptoms and efficacy and side effects of psychiatric medicines at Taberg.

The MH Monitor will observe discussions of efficacy of medicines at Taberg Mental Health Rounds and support teams.

The MH Monitor will review documentation of consultation with the Supervising Psychiatrist when three or more psychiatric medications and more than one medication per class are prescribed for Taberg residents.

50. Staff training on psychiatric medications and psychiatric disabilities. The State shall create or modify and implement policies and procedures requiring staff in Facilities to complete competency-based training on psychotropic medications and psychiatric disabilities.

50a. The training shall provide, at minimum, an overview of the behavioral and functional impact of psychiatric disabilities on youth, common treatments for such psychiatric disabilities, including both behavioral and pharmaceutical interventions; commonly used medications and their effects, including potential adverse side effects and intended benefits; and warning signs that a youth may be suffering a serious adverse effect of a psychotropic medication and the immediate and follow-up actions to be taken by the staff in such an incident.

COMPLIANCE

The training curriculum entitled "Introduction to Psychiatric Medicine" complies with 50a.

50b. The State shall create or modify and implement policies, procedures and training materials for staff at all Facilities as follows: Staff employed at the Facilities who routinely work directly with youth (but not including qualified mental health professionals or medical professionals) shall complete a minimum of six (6) hours of competency-based training regarding psychotropic medications and psychiatric disabilities annually for the term of this Agreement. Such staff includes, but is not limited to, Youth Division Aides, Youth Counselors, teachers, recreation staff, licensed practical nurses, Facility Administrators, and Deputy Administrators. All other staff at the Facilities shall be required to complete a minimum of one (1) hour of competency-based training on psychotropic medications and psychiatric disabilities annually for the term of this Agreement.

COMPLIANCE

Staff are provided with an orientation on the Psychiatric Medication policy and a 7-hour training on Mental Health and Psychiatric Medication that complies with 50b.

FUTURE MONITORING

The MH Monitor will continue to review documentation that Taberg staff are adequately trained about mental health and informed about residents' medications.

51. Psychotropic medication refusals. The State shall create or modify and implement policies, procedures, and practices regarding psychotropic medication refusals by youth, which provide, at minimum, as follows:

51a. All youth who are scheduled to receive medication shall be taken without the use of force to the medication administration location at the prescribed time. Any youth who expresses his or her intent to refuse medication shall communicate his or her refusal directly to medical staff.

COMPLIANCE

The revised PPM 3243.32 "Psychiatric Medicine" (9/15/14) and Policy PPM 3243.15 (updated 12/24/14) entitled "Refusal of Medical or Dental Care by Youth" comply with 51a. PPM 3243.32 contains procedures when youth refuses psychiatric medicine.

The curriculum for the one-hour training for nurses entitled "Refusal of Psychiatric Medication" complies with 51a.

Nursing staff at Taberg described practices that comply with 51a.

51b. In circumstances where staff's verbal efforts to convince a youth to report to the medication administration location results in an escalation of a youth's aggressive behavior, staff shall not forcibly take the youth to receive medication. The supervisor shall document the youth's refusal on a medical refusal form, and shall complete an incident report documenting the circumstances of the refusal, including the justification for not escorting the youth to medication.

COMPLIANCE

The revised PPM 3243.32 "Psychiatric Medicine" (9/15/14) and Policy PPM 3243.15 (updated 12/24/14) entitled "Refusal of Medical or Dental Care by Youth" comply with 51b. PPM 3243.32 contains procedures when youth refuses psychiatric medicine.

The training for nurses entitled "Refusal of Psychiatric Medication" complies with 51b.

Nursing staff at Taberg described practices that comply with 51b.

51c. A medical refusal form shall be completed each time a youth is scheduled to receive medication and refuses. In addition to the date and time, youth's name and prescribed medication which the youth is refusing, the form shall include an area for either the youth or a staff person to record the youth's stated reason for refusing medication, an area for the youth's treating psychiatrist to certify that s/he has reviewed the medication refusal form, and signature line for the refusing youth.

COMPLIANCE

The training for nurses entitled "Refusal of Psychiatric Medication" complies with 51c.

The MH Monitor observed signed medication refusal forms in Taberg residents' records that complied with 51c.

51d. The youth's psychiatrist shall receive, review, and sign all medication refusal forms prior to meeting with the youth.

COMPLIANCE

The MH Monitor observed signed medication refusal forms in Taberg residents' records that comply with 51d.

51e. The youth's treatment team shall address his or her medication refusals.

COMPLIANCE

The MH Monitor observed documentation that medication refusal had been discussed in Taberg residents' support teams and Mental Health Rounds in compliance with revised PPM 3243.32 " Psychiatric Medicine" (9/15/14) which complies with 51e.

FUTURE MONITORING

The MH Monitor will continue to review documentation of medication refusal at Taberg.

52. Informed consent. The State shall revise its policies and procedures for obtaining informed consent for the prescription of psychotropic medications consistent with generally accepted professional standards. In addition, the State shall require that the information regarding prescribed psychotropic medications is provided to a youth and to his or her parents or guardians or person(s) responsible for the youth's care by an individual with prescriptive authority, such as a psychiatric nurse practitioner. This information shall include: the purpose and/or benefit of the treatment; a description of the treatment process; an explanation of the risks of treatment; a statement of alternative treatments, including treatment without medication; and a statement regarding whether the medication has been approved for use in children.

COMPLIANCE

The revised PPM 3243.32 " Psychiatric Medicine" (9/15/14) complies with the requirements of 52 and contains guidelines for informed consent for psychiatric medicines: "The assent and understanding of the youth shall be sought for psychiatric medicines. The youth needs to understand, in accordance with his or her developmental ability, how the medicine may impact the way he or she feels, acts, and thinks, as well as the benefits and risks of treatment."

Staff receive orientation on the Psychiatric Medications policy, which includes informed consent procedures, and a 7-hour training on Mental Health and Psychiatric Medications, which comply with 52.

Completed informed consent forms were in the Taberg records reviewed by the MH Monitor.

FUTURE MONITORING

The MH Monitor will continue to review documentation of informed consent for psychiatric medications at Taberg.

53. Treatment planning. The State shall develop and maintain adequate formal treatment planning consistent with generally accepted professional standards. To this end, the State shall:

53a. Create or modify and implement policies, procedures and practices regarding treatment planning which address, among other elements, the required content of treatment plans and appropriate participants of a youth's treatment team.

COMPLIANCE

The New York Model implementation training included the integrated assessment and support plan and how to utilize both in support teams.

"The NY Model: Treatment Team Implementation Guidelines" complies with 53a.

The support team practices at Taberg comply with 53a.

53b. Require that treatment teams focus on the youth's treatment plan, not collateral documents such as the "Resident Behavior Assessment."

COMPLIANCE

Mental health staff at Taberg were observed complying with 53b and the support team meetings observed by the MH Monitor complied with 53b.

53c. Require that the youth is present at each treatment team meeting, unless the youth is not physically located in the Facility during the meeting or the youth's presence is similarly impracticable, and that, if applicable, the youth's treating psychiatrist attend the treatment team meeting a minimum of every other meeting.

COMPLIANCE

Support team meetings at Taberg comply with 53c.

Sustained compliance with 53c requires that the Taberg psychiatrist continues to participate in support teams of residents with complex diagnoses and/or psychiatric medicine issues.

53d. If a youth has a history of trauma, require that treatment planning recognizes and addresses the youth's history of trauma and its impact and includes a strategy for developing appropriate coping skills by the youth.

COMPLIANCE

Because all the Taberg residents have experienced trauma that continues to cause severely dysregulated behavior and relationship problems, complying with 53d is difficult. To meet the Settlement Agreement's requirement for "a strategy for developing coping skills [for trauma] by the youth," the effects of trauma on each resident's behavior must be

part of staff assistance in the youth's achievement of goals and the Acting Assistant Director for Treatment's analysis of complex trauma at the site visit must lead to staff training and coaching and sufficient staff to provide specialized individual programs. Taberg must have enough staff to provide specialized programs for some residents to comply with 53d.

53e. Require that treatment plans are individualized for each youth, and that treatment plans include: identification of the mental and/or behavioral health issues to be addressed in treatment planning; a description of any medication or medical course of action to be pursued, including the initiation of psychotropic medication; a description of any individual behavioral treatment plan or individual strategies to be undertaken with the youth; a description of the qualitative and quantitative measures to monitor the efficacy of any psychotropic medication, individual behavioral treatment plan or individual strategies utilized with the youth; a description of any counseling or psychotherapy to be provided; a determination of whether the type or level of treatment needed can be provided in the youth's current placement; and a plan for modifying or revising the treatment plan if necessary.

COMPLIANCE

Mental health staff at Taberg were observed complying with 53e and the support team meetings observed by the MH Monitor complied with 53e.

Taberg support plans have resident-specific change goals (composed with staff guidance) and team members' interventions to support girls in achieving their goals.

53f. Require that treatment plans are modified or revised as necessary, based on the efficacy of interventions, new diagnostic information, or other factors. The treatment plan shall be updated to reflect any changes in the youth's mental health diagnosis.

COMPLIANCE

Mental health staff at Taberg were observed complying with 53f.

On Site Observations Regarding Paragraph 53a-f (5/16)

The MH Monitor observed two outstanding Taberg support team meetings, both demonstrating strong relationships with girls, family treatment and crucial involvement of their CMSO.

■ is a 15-year old who arrived at Taberg on 1/15/16 for criminal mischief at a residential program. The Integrated Assessment indicated that she had previously been placed at ■ RTF for aggressive acting out. She fluctuates between periods of engagement and avoidance of programming. She has had diagnoses of Bipolar Disorder, PTSD and ADHD. At Taberg she is prescribed Clonidine for affective instability and aggression, Trilafon for aggression and Vyvanse for inattentiveness and hyperactivity; her diagnosis is listed on JJIS as unspecified trauma- and stressor-related disorder, unspecified personality disorder, and rule out ADHD. Her father is reportedly bipolar and incarcerated for sex abuse. She was exposed to domestic violence, sex abuse, physical abuse (by her older siblings; she is the ■ children), caretaker substance abuse, community violence and her father's repeated incarcerations. It was noted that she had visible injuries from physical abuse. At age 11 she had a psychiatric hospitalization for hallucinations and had

repeated psychiatric hospitalizations after that. She was not taking her medications at home.

■ was seen by the Taberg psychiatrist three times in March and three times in April. He noted her self-injury, aggression and unwillingness to get up for school and medication, and encouraged her to agree to try Vyvanse. Over the following four weeks he noted improvement in her behavior.

In a description of an observed Red Flag meeting with ■ the QAI report (April, 2016) noted: "The youth stated that she does not want to go home to her mother after the step-down program. She expressed fear around telling her mother this, and said that her mother would 'bug out. She'll never speak to me again.' She also admitted to staff that she felt abandoned by her mother. She said, 'I have to get hurt in a restraint for her to talk to me.' The clinician acknowledged this and asked the youth if that was why she got restrained so often: to get her mother's attention and if she consistently tried to outdo herself so that her mother would pay attention to her? The youth confirmed this and further stated that her mother only talked to her when she was in the hospital. The clinician recognized how that must feel for the youth. She stated that perhaps the toughest part of the youth's journey will be to grieve her mother. The youth agreed. The clinician went on to say she felt sad for the youth, that she was 'a brilliant kid,' and that it was too bad her mother did not see that. The youth had written a poem about her feelings and it was printed on a Taberg t-shirt. The clinician acknowledged that accomplishment and wondered how the youth's mother would feel if she got a chance to read it. The youth responded by saying that she 'became happier in placement because people understand me. She [her mother] never talked to me.' The clinician reminded the youth that sometimes we see ourselves through our parents' eyes. If she doesn't feel loved or valued by her mother, it could explain why she doesn't feel good about herself. The clinician told the youth that her hope for the youth would be that she could see herself the way that staff see her: brilliant, insightful, and funny."

During the site visit, her clinician had to adjust her support team because ■ mother was called at the beginning and angrily insisted that she have answers immediately. Staff reported that ■ is on an individual program due to aggression and threats, and she was doing well, asking to be taught patience, politeness and radical acceptance. The nurse reported that her injured shoulder and ankle were healing well. She was refusing her medications in the morning and accepted them in the evening. She is intelligent but not returning her school work in her individual program; she does not have enough seat time to take the Regents. The AOD reported she was making progress in reducing her easy frustration with peers. Her YC said now she is recognizing that she isn't angry at staff but has "anger from the past." Her clinician said she was courageous in talking about the past and wants to deal with her bad memories about her siblings and parents so she does not react angrily in the present. She is asking for help and wants therapy so she can have a different life. Team members indicated there were scheduled calls several times weekly when ■ mother does not answer. After this brief update (in which her CMSO was on the phone), her mother was called back and included in the meeting. She demanded to know her daughter's diagnosis, saying ■ did not know what it is. Staff told her that ■ current diagnosis is Conduct Disorder and ADHD (although that

is not the current diagnosis listed on JJIS; see above). Her mother does not accept the diagnosis and expressed anger at the Taberg psychiatrist calling her saying ■ is missing her medications. "She's got PTSD, is she getting medication for PTSD? She gets angry at me. You should tell us what needs to be fixed. No one calls me back. I'm so frustrated. At ■ I could call 24-7. If it wasn't for the CMSO I wouldn't know anything. I don't want a call from my daughter saying she just got put in restraints. I want you to help her." Her team patiently withstood her mother's anger, and her clinician asked whether she wanted the AOD to call her to advise her about ■ state of mind before each of their twice weekly phone calls. ■ was brought into the support team meeting. Her IIP was reviewed with her. Then, even though she said she did not like compliments, staff told her strengths like "intelligent, loves to learn, good sense of humor, brave, talking about difficult things, motivated, creative, asks for help," and her mother added "she's a fighter, keeps pushing." Her mother hung up. ■ said her goal is understanding her anger, finding skills to deal with her triggers and writing in her journal. She was proud of getting up for a week and taking her medications. She and staff discussed her statement "I have my mind set on trying to do good." She planned with her team how to get slowly off her individual program. After the meeting, staff discussed their frustration at not being successful at engaging her mother despite efforts to provide family therapy over the phone. They want to continue to support ■ in not being hurt by her mother's anger and not answering the phone for scheduled calls. Her CMSO offered to continue to reach out to her mother as well.

■ is a 15-year old with a criminal mischief offense who arrived at Taberg in 9/15, was discharged to ■ in 12/15 and returned in 1/16 to Taberg. While she was at ■ she was frequently restrained, went AWOL and had conflict with a resident now also at Taberg. She had difficulty making a connection with staff at ■. Her trauma history includes exposure to domestic violence, parental substance abuse, parental incarceration, and neglect. At Taberg she has been easily aroused by her emotions and had difficulty reducing her arousal. Her IIP called for "Ventilation (don't respond to her anger, make her feel understood); humor and distraction (change the subject and she will be much more willing to discuss the conflict) and Time Away (if she says 'Leave me alone,' don't talk about the conflict while she is angry). ■ had a Red Flag meeting and support team in the same meeting. Her clinician, YC, Acting Assistant Director of Treatment, Education Coordinator, nurse, 2 YDAs, 7 Challenges group leader and her mother (on the phone) participated in the meeting; her CMSO was not available but had been involved in previous support team meetings. She was proud to be the only girl on application phase and enjoyed off-campus trips; until a few days before, she was showing tolerance, patience, and that she could "keep things in perspective." But on Mother's Day her parents were supposed to visit and she was upset they did not. The next day was her birthday and she felt "flooded with sadness and rejection." A few days later she was restrained because she was angry at her favorite YDA for not giving her attention. She had several more restraints and kicked staff during the week—she was anxious about her release and staff thought she was getting restrained in order to get a 60-day hold. In a discussion about release she said, "I don't know if I want to go home." A team member reminded her, "Self-control is like a muscle, the more you use it, the stronger it gets." Everyone listed her strengths: hard worker; relationships; funny; courage; and communicating well. She said, "This time at Taberg is different." The team talked about "saying goodbye and envisioning life after

Taberg. How can you feel it's okay to connect with new supports in the community?" She responded that it triggers her to be asked what she is thinking or feeling, and they ask her that at every new place she goes. She recognizes risks in going home and her support team said they would talk more about them. She plans to make a list of her favorite people in the community. After the meeting, team members were pleased that her mother was open to hearing staff talk about how she can form supportive relationships in the community, that ■ wanted to hear staff ideas about how to build those relationships, and that "she did a good job identifying her progress." In addition to plans made at the meeting, staff will ask her CMSO to come to Taberg to plan relationships in the community with ■ and possibly arrange videoconferencing with providers.

Taberg support team meetings continue to be outstanding. Staff have improved in making support plans unique for each resident and to have goals that incorporate trauma-related change, relationship-building and relapse prevention. There is more focus in support plans on specifically "What has to change for you to be successful after Taberg."

Between 6/1/15-9/31/15, support was provided to Taberg by numerous BBHS staff. BBHS Chief of Treatment Services Anne Pascale visited Taberg 10 times between November, 2015 and April, 2016. She provided support for the Acting Assistant Director for Treatment and for the administrative team, conducted interviews for clinical vacancies, coordinated the implementation of 7 Challenges, worked with the clinical team on vicarious trauma and morale and "getting staff to be pro-active regarding the high profile youth." She also provided training to the clinicians and YCs on writing goals and objectives with the resident and her team.

Bev King, the BBHS Social Work supervisor, visited Taberg more than five times monthly until April, 2016 following her support of the transition to 7 Challenges. After that, Ms. King continued to work on RTF referrals for residents and arranging future special services with OPWDD.

Shaun Lang visited Taberg 17 times between November, 2015 and April, 2016. Her priority was training the two new clinicians and the new YC at Taberg on the New York Model, support plans, support teams, case management, and documentation. She arranged the 3-hour 7 Challenges training for all staff. She also attended Mental Health Rounds, support team meetings, Red Flag meetings, and continued to support the improvement of the DAS.

BBHS Substance Abuse Coordinator Mia Morosoff visited Taberg three times between November, 2015 and April, 2016. She supported Taberg's transition from TRIAD to 7 Challenges and from Bev King who had been facilitating TRIAD groups to Bev Sowersby who is facilitating 7 Challenges. A month before this site visit, Ms. Morosoff reviewed each resident participating in 7 Challenges regarding their group and individual treatment and problems with the Taberg schedule and having consistent group meetings.

BBHS Sexually Harmful Behavior Treatment Coordinator Jennifer Alongi visited Taberg five times between November, 2015 and April, 2016. She met with the Acting Assistant Director for Treatment and provided supervision to the clinician doing specialized assessment and treatment for three residents with histories of sexually harmful behavior.

Dr. Joe Benamati, Sanctuary consultant, was scheduled to provide the third installment of Sanctuary training and assist with re-entry planning for residents in May, 2016 according to Anne Pascale's notes.

The QAI Review of Taberg (April, 2016) concluded that "The ISPs have improved with identifying youth driven goals, with their skills and objectives being transferable to the community. However, more assistance from the team is needed to link these goals with the youth's barriers to success and how their trauma has impacted and continues to impact their behavior. Although the involvement with the youth's families and their recorded participation has increased there were limited identified family goals, objectives, and interventions listed. Breaking down the youth's objectives into understandable and measurable components, and listing each team member's intervention remains a challenge." One of the records QAI reviewed was "an excellent example of a trauma-based ISP. It was the youth's first ISP. Its focus was on exploring and identifying the youth's vulnerabilities and triggers from her extensive trauma history." For another resident's support plan, QAI concluded "The team identified several strength-based and supportive objectives for the youth to achieve to reach her goals; however, they were written in a manner that was too broad. Each objective should be narrowed and specific. The objective should target a skill the youth chooses to focus on to achieve for the next thirty days. The objectives did not appear to be youth driven. There were no family goals or objectives to support the family with the youth's return, and the plan did not reflect the family's input."

FUTURE MONITORING

The MH Monitor will review whether staffing is sufficient to provide effective specialized individual programs for severely traumatized residents. Specialized individual programs should be designed specifically to address a resident's attachment difficulties, teach her emotional regulation, and provide her with success experiences given her cognitive and adaptive skill limitations.

The MH Monitor will review the impact of specialized individual programs on restraints and suicide watches in general at Taberg including the adequacy of attention in the specialized individual programs to support self-calming throughout the day so the resident does not escalate.

The MH Monitor will review whether additional staff training and coaching on the effects of trauma on residents is being provided for Taberg staff, including understanding residents' survival-based self-regulation, "holding" traumatized residents emotionally without restraints, and providing safety given self-harming tendencies in traumatized residents.

The MH Monitor will review Taberg support plans for trauma behind behavior problems identified in Integrated Assessments being incorporated into the support plan goals and treatment.

The MH Monitor will review support plans for assistance to residents in articulating personal change goals for which all staff on their teams identify what he/she will do to support each resident's daily steps to be able to be successful after Taberg.

54. Substance abuse treatment. The State shall create or modify and implement policies, procedures, and practices to require that:

54a. All youth who have a suspected history of substance abuse are provided with adequate prevention education while residing at a Facility;

COMPLIANCE

The OCFS substance abuse manual defines practices that comply with 54a. Taberg is providing InnerVisions groups for residents.

54b. All youth who are known to have current problems with substance abuse or dependence are provided adequate treatment for those problems while residing at a Facility.

COMPLIANCE

The OCFS substance abuse manual was revised 4/18/16 to include 7 Challenges and defines practices that comply with 54a.

BBHS Facility Clinical Procedures (updated 11/7/14) specifies: "All youth who enter DJJOY with histories of substance abuse or dependence and are assessed as requiring continued intervention will receive treatment for such. Many facilities have substance abuse clinicians who offer pull-out individual and group treatment. For youth being treated by both a primary clinician and a substance abuse clinician, it is important to ensure that the youth's support plan reflects the work of both clinicians. Clinicians need to coordinate regularly around treatment. Youth requiring continued support/treatment/intervention following release from facility for addiction will require a relapse prevention plan as part of release planning." A 3/15 instruction to the Taberg substance abuse clinician required that "youth arriving at Taberg with a Special Needs and Assessment Profile (SNAP) score of 3 or 4 will be flagged by the Assistant Director for Treatment, who will add the names to a spreadsheet and notify the substance abuse clinician to conduct an SA evaluation" remains the requirement.

Taberg's last substance abuse clinician arrived in 2/15, but left in 4/15 and a new substance abuse clinician has not been hired. The BBHS Social Work Supervisor did substance abuse evaluations and led groups for months in 2015 and early 2016. The Taberg clinicians were trained in 7 Challenges and the BBHS Coordinator of Substance Abuse Services, with the BBHS Social Work Supervisor, provided two 3-hour sessions of an overview of 7 Challenges for Taberg staff in December, 2015. Taberg implemented 7 Challenges in March, 2016, in place of the Triad substance abuse treatment model. The facilitator is a credentialed alcoholism substance abuse counselor (CASAC) certified YC-2 from the Syracuse CMSO. She is facilitating weekly 7 Challenges groups and providing weekly individual journal writing sessions with the youth. Taberg is recruiting a new clinician who can assume these responsibilities.

On Site Observations Regarding Paragraph 54a-b (5/16)

Taberg staff are including residents' history of substance use in Integrated Assessments and goals in support plans. Applying skills being learned in the facility to successfully avoid returning to substances in the community is an ongoing goal of services. A necessary element of coaching on New York Model implementation is ensuring that each

resident integrates skills learned in substance abuse treatment with those learned in therapy and DBT and Sanctuary groups. Communication in support teams and Mental Health Rounds among the clinicians, YCs, and YDAs and the rest of the team will support each Taberg resident's individual progress in self-calming and relying on these skills to avoid substance use in the community.

7 Challenges is recognized by SAMSA as evidence-based and it fits with DBT. The SAMSA website described 7 Challenges as "designed to treat adolescents with drug and other behavioral problems. The challenges include (1) talking honestly about themselves and about alcohol and other drugs; (2) looking at what they like about alcohol and other drugs and why they are using them; (3) looking at the impact of drugs and alcohol on their lives; (4) looking at their responsibility and the responsibility of others for their problems; (5) thinking about where they are headed, where they want to go, and what they want to accomplish; (6) making thoughtful decisions about their lives and their use of alcohol and other drugs; and (7) following through on those decisions. These concepts are woven into counseling to help youth make decisions and follow through on them. In addition to participating in counseling sessions, youth write in a set of nine 7 Challenges Journals, and counselors and youth engage in a written process called cooperative journaling."

The MH Monitor met with the Acting Assistant Director of Treatment, clinicians, the CMSO CASAC, BBHS Coordinator of Substance Abuse Services and BBHS Chief of Treatment Services for an update on substance abuse treatment at Taberg. The clinicians had 7 Challenges training, and one commented that "It changed the way I talk to girls. It is the same questions I'm pursuing with them in individual therapy: choice and decision-making. We're talking about the function of the substance for that girl. Girls respond well because staff are not telling them to stop their substance abuse. The questions in 7 Challenges groups have stirred up so much." Additionally they described the combination of group and individual treatment as a crucial part of 7 Challenges: "girls feel comfortable in their relationships with clinicians. They don't trust other girls. What happens in group the clinicians work on in depth individually." The group leader commented, "They come to group with their journals—there is much beneath the surface with their journals. Some of them write a lot." She gave as an example a girl whose "journal is a way for her to speak since she is so quiet. Through journaling she wrote two pages to her judge" The group leader comments on their journal entries and returns them to the girls. Staff commented, "7 Challenges says teens will do what they want. Don't tell them to stop drug use. Teach them to make informed decisions and be aware of consequences. This is empowering." They added that 7 Challenges is the only program that requires all the staff to be trained. The CMSO CASAC is at Taberg two day/week to provide the 7 Challenges groups, meet with clinicians to talk about each girl and participate in support teams and Red Flags.

Twelve of the 16 Taberg residents were participating in 7 Challenges at the time of the site visit.

They hope to integrate the 7 Challenges groups into the school schedule, because the current meeting time of 3:00 is not optimal: the girls are affected by shift change and making a transition from school. They want break before 4:00 when they have recreation/gym

The group leader also hopes girls can continue 7 Challenges as they leave Taberg into the community. Since she is in the CMSO she can meet with girls in nearby aftercare offices after they leave. Unfortunately, few private programs offer 7 Challenges so most girls released from Taberg have to go to a traditional substance abuse program requiring abstinence that they might not find supportive. Preparing them for this transition will be another requirement of re-entry.

The MH Monitor observed a 7 Challenges group where they discussed choices. Several of the girls participated actively and others listened without talking.

On the 5/16 Taberg Substance Abuse Disorder/Treatment Tracking spreadsheet, all 16 residents were listed with their SNAP scores and an assessment of whether they required substance abuse treatment. Three did not require substance abuse treatment. Eleven required substance abuse treatment and it was noted that "Ms. Sowersby and primary clinician are working on this with youth." Two additional girls were not receiving group treatment and instead their "primary clinician will be working on this with youth as needed."

The QAI Review (April, 2016) at Taberg found improvement in completed substance abuse evaluations but required improvement in "the documentation of individual and group substance abuse treatment and interventions. The plan should also include the youth's goals, objectives, and responses to interventions within the ISPs." QAI highlighted one youth's record that demonstrated good practice: She was admitted to Taberg in January, 2016 with a substance use disorder diagnosis of cannabis use disorder, moderate; and alcohol use disorder, mild. The youth's AOD SNAP score of 3 and her AADIS score of 43 suggested a comprehensive substance use disorder evaluation was necessary, and it was completed in February, 2016 with the recommendation of 7 Challenges. In a February 2016 clinical contact note, the clinician indicated "treatment will continue to address poor coping strategies, use of escape and avoidance and the function that her use of substances played in altering her feelings and ability to be present."

FUTURE MONITORING

The MH Monitor will review documentation that substance abuse assessment results are in Integrated Assessments, incorporated in the goals and interventions in their support plans, including a relapse prevention plan, and in their re- entry planning and that all youth with substance abuse diagnoses at Taberg are receiving individual (minimally twice per month) and group (minimally once per week) substance abuse treatment reflected in clinical contact notes. Until Taberg has a substance abuse clinician trained in the New York Model and 7 Challenges, continued compliance with Paragraph 54 will require ongoing support from BBHS and Home Office.

55. Transition planning. The State shall require that each youth who has mental health issues, or who has been or is receiving substance abuse treatment, which is leaving a Facility has a transition plan. The State shall create or modify and implement policies, procedures, and practices for the development of a transition plan for each such youth. The transition plan shall include information regarding:

55a. Mental health resources available in the youth's home community, including treatment for substance abuse or dependence if appropriate;

COMPLIANCE

The Continuity of Care Plan complies with 55a.

55b. Referrals to mental health or other services when appropriate;

COMPLIANCE

The Continuity of Care Plan complies with 55b for mental health services. The Community Re-Entry Plan complies with 55b.

BBHS Facility Clinical Procedures using the Juvenile Justice Information System (updated 11/7/14) specifies: "The community re-entry plan, like the Integrated Support Plan, is a multi-disciplinary exercise. All members of the youth's support team are responsible for recording the course of services and outcomes for that particular discipline throughout the youths stay in facility. Each support team member will also record any ongoing identified needs, what support services are necessary for the youth's successful transition from facility and any appointments established for that youth. The clinician is further responsible for updating any final changes to the DSM diagnosis and is responsible for completing the Continuity of Care Plan (COC). The COC is the record of all established appointments with mental health and/or substance abuse providers in the community."

Taberg is completing Community Re-Entry Plans. The MH Monitor raised concerns about the ineffectiveness of the CRP as a document to support the transfer of a girl's goals and skills learned at Taberg to the community or residential program. In August, 2015, a Home Office workgroup discussed both the format and content of the CRP, and there was consensus not to change the format of the CRP. The group agreed that Taberg should focus on youth being able to articulate what goals they accomplished at Taberg and what skills and goals they are taking to the community.

55c. Provisions for supplying psychotropic medications, if necessary, upon release from the Facility.

COMPLIANCE

The one-hour training for nurses entitled "Psychiatric Medications at the Time of Release" explains release plans for youth with a 30 days dose of psychiatric medication, and appointment with a community-based mental health program, and the involvement of the parent and CMSO case manager in compliance with 55c.

On Site Observations Regarding Paragraph 55a-c (5/16)

The number of returnees at Taberg this site visit was fewer than in the site visit in 2015. It is unknown whether this is a trend in reduced numbers of returnees and whether the reduction was the result of efforts by Taberg staff to assist girls in transferring their relationships, goals and skills to their next placement and/or the efforts of Home Office to train providers and OCFS Child Welfare in responsiveness to the trauma-related needs of girls and strengthen the connection between CMSOs and Taberg staff and residents.

Strengthening family treatment by community-based providers before and immediately after re-entry is essential. MST and FFT are described as more family-focused and more intensive than B2H, but they are not available in all communities; B2H typically

has a delayed start after a girl returns to the community. Taberg staff have seen the success of involving CMSOs in Red Flag meetings and monthly support team meetings. They articulated the necessity of a support plan specifically for discharge with triggers for drugs, AWOL, peer choices, and how to cope. Taberg clinicians and YCs recognize the importance of more involvement of CMSOs, mental health providers (FFT, MST, B2H) and residential providers in videoconferencing before re-entry specifically to pass trusting relationships and skills from Taberg to the girl's next location. The Taberg Acting Assistant Director for Treatment suggested instituting routine one month post-release Red Flag video conferences to support the girl's use of skills learned at Taberg and development of new trusting relationships which could be an effective practice.

The MH Monitor continues to recommend that Home Office review each Taberg returnee over a six month period to examine what planning was done prior to re-entry to assist in the transfer of the resident's gains and relationships to her new placement, what services were provided during re-entry, how quickly, at what intensity, and how they were adapted specifically to skills learned at Taberg. Given that some returnees appear to be long-term DSS clients with multiple placements, this history should also be included in this returnee analysis. Next steps to ensure a higher success rate on re-entry should be formulated from this review.

Twenty-two girls had been discharged from Taberg since the last site visit, typically four per month. Half were discharged to the CMSO, after 4-10 months stays at Taberg. Six were discharged to stepdown programs, after 3-7 month stays at Taberg. Four were discharged to Columbia and one was discharged to DSS. The MH Monitor reviewed the Community Re-Entry Plans for two girls released since the last site visit:

■ arrived at Taberg at age 12 in July, 2015 and was released in February, 2016. She was placed with OCFS following a physical altercation with a police officer. At age 9 she was sexually and physically assaulted by group of males in her neighborhood, and her behavioral outbursts began after that. She was truant from school, used marijuana, ran away from home repeatedly, and engaged in violence. She has a history of psychiatric hospitalizations and outpatient counseling. The CRP included a description of her treatment at Taberg: when ■ arrived, she did not want to meet with clinicians or go to school, groups or recreation. She attacked staff, was restrained, and "would uncontrollably cry reporting fear and intense sadness." She worked with a female clinician, began to trust in relationships and increased her participation in the program. She recognized her academic strengths and decided to complete school and become a photographer. The CRP indicated that ■ mother and ■ were "very involved and worked with the Taberg staff along with CMSO staff to establish a support plan that will work for her." They visited the facility a several times and also participated in visits with her at the Rochester CMSO. The Taberg clinician recommended that ■ "will require individual therapy that is relational...[and] focused on building trust and adaptive coping skills to address her internal distress...She continues to have a significant amount of distrust in authority, new environments, and most people in general. She reported feeling unsure and unsafe with males in discussions regarding her trauma history and 'girl things.' She is open to working on nonverbal exercises that allow her to express herself as she continues to have difficulty verbalizing her emotional experience. She has also significantly benefited from family

therapy where she is able to begin trusting her relationship with her mother again.” ■■■ diagnosis at the time of her release from Taberg was Unspecified Bipolar and Related Disorder, Conduct Disorder, Cannabis Use Disorder, Alcohol Abuse Disorder, Rule Out Post Traumatic Stress Disorder and ADHD, and she was prescribed Clonidine and Vistoril. ■■■ was stepped down to Cayuga to receive counseling, family therapy, and substance abuse treatment and she remained there three months later at the time of the site visit.

■■■ is a 14-year old who was placed at Taberg in July, 2015 and was released in February, 2016. Her history included multiple out-of-home placements and abscondences, psychiatric hospitalization beginning at age 10, special education services, and use of marijuana and alcohol. The CRP indicated that ■■■ has a history of trauma including loss: her “biological father resides in another state, parents have significant unresolved conflicts, and her mother has recently ended another relationship and resides with ■■■ grandmother.” Her mother was described as having mental illness and her father as a substance abuser. Taberg’s individual and group mental health treatment was summarized in the CRP, and ■■■ was described as “actively and productively participating in mental health and substance abuse treatment. She completed a TRIAD relapse prevention plan that notes she does not want to use substances again and is accepting of continued treatment services. ■■■ has been thinking about this step down for considerable time and recognized that it would not be good for her to go to ■■■ or reside with her mother at this time in ■■■ ■■■ is content to be at ■■■ while her mother straightens out important matters to include where the family home will be located. ■■■ is struggling with feelings of anxiety related to leaving all the people that have helped her during her Taberg stay. ■■■ states that these people are like family to her and it is hard to leave them and go through everything all over again at a new place. We have assured her that we will visit her and stay in touch with her when she steps down.” The Taberg clinician commented that “■■■ ■■■ has a discreet unit for youth with substance abuse treatment needs. The CMSO will continue to provide support to her mother that includes transportation; Sanctuary model support services to parents; resources in Buffalo that can assist her mother to improve parenting skills and parenting a child with substance abuse issues have been identified/discussed in detail with mother at Support Teams and during CMSO contacts.” The Taberg case manager continued, “■■■ will receive educational services through ■■■. She will also continue to build a stronger relationship with her mother and will work with counselors to help transition back to her mother with FFT and B2H services.” ■■■ diagnosis at the time of her release from Taberg was Unspecified Depressive Disorder, Post Traumatic Stress Disorder, Cannabis Use Disorder and Alcohol Use Disorder. The Taberg psychiatrist discontinued Seroquel and Zoloft, and ■■■ was prescribed Benadryl as needed for sleep. She remained at ■■■ three months after placement at the time of the site visit.

FUTURE MONITORING

The MH Monitor will continue to review Home Office efforts to ensure success on re-entry from Taberg.

The MH Monitor will continue to review how Taberg uses the last support team meeting to help each girl and those who will support her during re-entry tailor Taberg goals to success in the community or placement, so her supporters understand their role in

helping her regulate emotions, tolerate distress, form trusting relationships and avoid relapsing.

IV. DOCUMENT DEVELOPMENT AND QUALITY ASSURANCE

56. *Document Development and Revision.* Consistent with paragraph 68¹ of this Agreement, the State shall create or modify policies, procedures, protocols, training curricula, and practices to require that they are consistent with, incorporate, address, and implement all provisions of this agreement. In accordance with paragraph 68 of this Agreement, the state shall create or modify, as necessary, other written documents – such as screening tools, handbooks, manuals, and forms – to effectuate the provisions of this Agreement. The State shall submit all such documents to the United States for review and approval, which shall not be unreasonably withheld.

COMPLIANCE

COMMENT: On December 21, 2015, the District Court entered an order finding New York to be in compliance with paragraph 56 of the Settlement Agreement, and released the State from it.

57. *Quality Assurance Programs.* The State shall create or modify and implement quality assurance programs consistent with generally accepted professional standards for each of the substantive remedial areas addressed in this Agreement. In addition, the State shall:

COMPLIANCE

COMMENT: A positive element of the monitoring process has been the creation and implementation of the Quality Assurance and Improvement (QAI) Bureau. The Monitors also received in advance of the monitoring visit a draft version of the Program Review: Taberg Residential Center for Girls, May 5, 2016 (the QAI Report) from QAI. Before the on-site visit, the Monitors participated in a conference call to review this the report, which is a remarkably thorough and detailed resource. The Monitors both expressed their appreciation for such a high quality and comprehensive quality assurance review. These quality QAI products have become an important force in the achievement of compliance with the Settlement Agreement. Given the changes described above, the QAI Report has been helpful to Home Office and the Monitors in explaining how the infusion of new staff has shaped the outcomes in several areas.

QAI implemented the Graduated Response System (GRS) as a powerful quality assurance tool, incorporating performance metrics developed with the assistance of OCFS' Bureau of Strategic Planning and Policy Development. QAI reviewed with the Monitors the development of these restraint metrics and how they will be linked to GRS protocols and action plans. More importantly, this QAI initiative recognized that reliable critical performance metric/restraints safeguards influence the monitoring in ways that expedite

¹ 68. Document development and revision. The State shall timely revise and /or develop policies and procedures, forms, screening tools, blank log forms, and other documents as necessary to ensure that they are consistent with, incorporate, address, and implement all provisions of this Agreement.

agreement among the Parties about compliance. Home Office, QAI, and the Finger Lakes TIC validated GRS at Finger Lakes, so the Monitors again verify the effectiveness of the system. The Home Office and facility TICs have become essential elements in the use of the GRS, serving as primary agents for problem-solving and stability regarding Protection from Harm and Mental Health programs in the living units.

The GRS system demonstrated its designed usefulness at Finger Lakes. The challenge at Taberg is not graduated responses but the thresholds for various levels of action. The quality assurance challenge at Taberg is finding and implementing a strategy to move the GRS level out of the "red" without sacrificing the belief that a distinguishable difference exists between appropriate and excessive uses of force. Evidence exists to suggest a re-evaluation of the GRS thresholds for Taberg, and discussions between Home Office, the Monitors, and DOJ show progress.

57. a. create or modify and implement policies and procedures to address problems that are uncovered during the course of quality assurance activities; and

COMPLIANCE

COMMENT: Crisis disruptions of normal operations that result in reductions in youth safety and increases in uses of force should initiate discussions about special, additional QAI critical reviews and evaluations of the OCFS crisis management plans.

57. b. create or modify and implement corrective action plans to address identified problems in such a manner as to prevent them from occurring again in the future.

COMPLIANCE

COMMENT: The Justice Center has substantially reduced the amount of time between the start of a staff sexual abuse allegation and the production of a findings letter and report. In addition, Home Office reports monthly and updated sexual abuse allegations using the Monitors' Taberg Sexual Abuse Findings Table supplied to OCFS as an Excel spreadsheet. The Monitors do not need to continue of this practice.

V. SUMMARY

The belief that compliance may require a rethinking of the Protection of Harm metrics related to the New York Model forecasts that safety challenges will likely persist due to the larger problem of the absence of sufficient consistency and predictability at Taberg. Furthermore, consistency and predictability seem more difficult to achieve in the somewhat concrete thinking worlds of Taberg youth and some staff, who see the individualization of the New York Model and the AP contingency modifications (DAS and levels/phases) as examples of unfairness, outright prejudice against some youth, and favoritism. Heightened reactivity to perceived slights to fairness, emotion-driven distortions of being personally "wronged" by purposeful program changes, and increased vigilance are common and developmentally predictable responses of traumatized youth with histories of underdeveloped emotional regulation manifested through anger and acting out.

The importance of fully integrating the Mental Health and Protection from Harm aspects of the Settlement Agreement is evident at Taberg. Intensified services designed for

traumatized girls during residential and community re-entry, with the result of a substantial reduction in the number of returnees, and enhanced self-calming work by YDAs with guidance from clinicians and YCs, and strong intact teams attending to the factors leading to high restraint rates continue to be necessary for full implementation of the New York Model at Taberg.

Use of force statistical analyses have yielded few insights. The only factor with a consistent correlation to increases in the frequency and intensity of use of force is the organizational and program instability created by (a) the ability of girls to distress and manipulate staff through exploitation of child protection safeguards (e. g., the spate of false sexual abuse allegations against staff), (b) key leadership and treatment staff transitions, and (c) the altering of a stable unit upon the arrival of highly disruptive youth. More so than any other juvenile facility in the Monitors' collective experiences, the Taberg monitoring visits have been reminiscent of a child's snow globe. This is not a reference to the snowy weather associated with Tug Hill but rather the repeated way that someone or something literally shakes everything up and disrupts a peaceful scene. As a result, there has been far too much instability due to never-ending transitions. The outcome has been various attempts to establish enough structure, consistency, and predictability for integrated support teams to develop and the New York Model succeed.

The Monitors commend the Taberg and Home Office staffs for the efforts and resources to maintain a therapeutic, safe, and stable environment; but in the six months since the November, 2015 site visit, Taberg has experienced leadership changes and continued staff coverage deficits resulting in increased stress for residents and staff. Both restraints and self-harm threats have remained high, leading to even more stretched staff. The Taberg administration has managed to recruit and hire many YDAs, but with turnover the staff on the units has been described as "green" at every site visit. While the day shift has strong unit leadership and more seasoned staff, a continuing challenge is that the evening shift often has many inexperienced staff. Furthermore, it puts girls at risk to have so many staff working several 16-hour shifts each week.

Home Office is not without staffing successes. Taberg was without a Facility Director and Assistant Director for Treatment between May and November 2015, and the team of Kathy Fitzgerald and Dr. Goel did outstanding jobs acting in those positions.

Dr. Goel's innovative Alternative Program (AP) provided one-on-one attention to a girl and coordinated her work with her clinician, YC, YDAs, teachers, and nurses. AP could be relatively successful as intensified support for a girl who cannot regulate herself (AP is more than simple Arms Length Supervision). The AP approach requires more staff than Taberg maintains using a standard OCFS Coverage and Assignment formula. The AP requires both a sufficient number of seasoned staff and collaboration. Trying to provide an AP for one girl on each unit by mandating staff quickly undermines morale and the AP. In addition, one clinician and one YC per unit appear not to be sufficient to meet the prospect of usually at least one girl who needs an individual program on each unit, given the regular demands on their caseloads.

The Monitors' willingness to support a Home Office Action Plan requested by DOJ regarding the proposed GRS modification that includes intensive supports tailored to

individual residents to mitigate rates of restraint and suicide watch was a function of the level of comprehensive clinical analyses and integrated program plans Dr. Goel presented during our May, 2016 site visit. There is no disagreement that Protection from Harm requires safety; and if safety is not present at sufficient levels, the New York Model cannot achieve its goals. The Monitors hope that the intensive supports tailored to individual residents to mitigate rates of restraint and suicide watch will result in Taberg achieving sustained compliance with the Settlement Agreement. Taberg will be challenged to provide the intensive supports tailored to individual residents without Dr. Goel's leadership.

Home Office and OCFS personnel, along with DOJ, will likely read this report and conclude that the Monitors are saying nothing new. There is considerable repetition in this report and in our semi-annual interpretations of what is happening at Taberg. While the Monitors believe they understand the fidelity elements of New York Model implementation by way of the sustained compliances at Columbia and Finger Lakes, the current repetitive narrative seems to stem from an ongoing discovery of the same issues and problems at Taberg. The Monitors remain consistent in their support of the New York Model and continue to anticipate its effectiveness with Taberg girls who are engaged with their support teams. In the process of forming strong relationships with staff, these girls are supported to figure out their future goals, improve distress tolerance and emotional regulation, learn DBT and Sanctuary skills, make progress in family relationships, participate in re-entry planning to continue their gains in their next location, and plan for relapse prevention. As Home Office data show, this particular group has a lower rate of restraints and self-harm. The Monitors have observed reduced New York Model effectiveness with girls who arrive from residential programs and/or are returnees. Some of these girls seem to require a tremendous staff effort to acquire even moderate emotional regulation, and in the process (which often takes months), they tend to have much higher numbers of restraints and self-harm incidents. Staff do a commendable job trying to keep the units stable in the presence of the emotional upheavals of one or more extremely dysregulated youth.

The New York Model is designed to individualize care for each resident: the IIP and the support plan are developed with the resident and reflect her unique history and needs; she is supported through her relationships with staff and how their attention is individualized to her. The alternative specialized program is *distinctive* and limited for the resident who requires much more than individualized care. The resident in an alternative specialized program may have a staff person with her at all times teaching her how to regulate her emotions and how to feel safe in a relationship, and will have limited time on the unit to prevent triggering by other residents and a modified school and recreation program. The alternative specialized program requires more staff than the individualized care of the New York Model, and even more awareness of how trauma affects the resident. It is expected that no more than one girl per unit will have an alternative specialized program at a time, and that her support team will discuss how to modify her program at least weekly. As the resident develops relationships with staff and more ability to regulate her emotions, a gradual integration into the unit and a less intensive program will be planned.

The alternative specialized program was developed for two reasons: (1) Home

Office and Taberg staff had taken numerous steps to prevent the admission to Taberg of severely traumatized DSS girls for whom residential care did not provide sufficiently intensive mental health services, and concluded that some of these girls, who are not typical delinquents, would continue to be ordered to OCFS by courts and Taberg would be the only available placement. (2) For the GRS to be modified so it would be meaningful at Taberg would require removing these girls—who have exceptionally high rates of restraint and suicide watch—from the calculation. Not only will Taberg staff have to be increased to accommodate alternative specialized programs, but also Taberg must continue to use IIPs and de-escalation effectively with all residents to maintain low restraint rates. Furthermore, Home Office must ensure that no more than one or two residents who will require alternative specialized programs are in the facility at a time.

OCFS, the Monitors, and DOJ agree that Taberg residents will not be well served by temporary fixes that deteriorate after compliance with the Settlement Agreement has been achieved. The alternative specialized programs, staffing additions and modified GRS are designed to be enduring New York Model applications that permanently strengthen Taberg.