

**NEVADA HEALTH INFORMATION EXCHANGE BOARD OF DIRECTORS
MEETING MINUTES**

**September 3, 2013
2:00 PM**

**Department of Employment, Training
and Rehabilitation
1325 Corporate Blvd.
Reno, NV**

**Department of Employment, Training
and Rehabilitation
2800 East St. Louis Avenue
Las Vegas, NV**

BOARD MEMBERS PRESENT

Reno

Elizabeth “Betsy” Aiello, Vice Chair
Andrew “Andy” Pasternak IV, MD
David LaBarge, NV-HIE CEO, Ex officio
Amber Joiner, DHHS Deputy Director, Ex officio
Lynn O’Mara, State Health IT Coordinator, Ex officio

BOARD MEMBERS EXCUSED

Brian Labus
Lindsey Niedzielski

Via Telephone:

Eric Lloyd
Linda Montgomery

NV-HIE STAFF PRESENT:

Carolyn Cramer, NV-HIE Legal Counsel
Drew Simmons, NV-HIE Staff

DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS) STAFF PRESENT

Megan May, Director’s Office, DHHS
Stefani Hogan, Director’s Office, DHHS

OTHERS PRESENT

Via Telephone:

Tracy Okubo, ONC
Tristan VanHorne, Orion Health
Kelly Drake, TEKsystems
Chris Slabaugh, Northern Nevada Development Authority

1. Call to order, roll call, determination of a quorum and announcements

Ms. Aiello called the meeting to order at 2:03 pm. Ms. Hogan called the roll, and informed Ms. Aiello that a quorum was present.

2. Public comment

There was none.

Ms. Aiello noted that since Mr. Lloyd would have to leave the meeting at approximately 3:15 pm, she was taking Agenda Items #6 and #7 out of order as they required action by the Board.

7. Review, Discuss, and Approve grant to University of Nevada, Reno College of Business for required Program Evaluation activities, per the NV-HIE sub-recipient award from DHHS, and Determine any next steps

Mr. LaBarge presented an overview of the statement of work for the University of Nevada, Reno (UNR), College of Business grant, and explained the justification for issuing a grant versus a contract. He also explained that the grant amount of \$122,669 was a mandated allocation of the State HIE grant for doing the required program evaluation. Ms. O'Mara said this was the two percent minimum of the total State HIE grant award that must be spent on program evaluation. Dr. Pasternak asked who at UNR would be performing the grant work. Ms. O'Mara stated that Dr. Jeanne Wendel, a health economics professor and Dr. Dana Edberg, an IT professor, would be leading the grant work. Dr. Pasternak voiced his support as he knew the professors. Ms. Aiello noted that the grant budget was based on firm fixed price deliverables, and not time and effort. Mr. LaBarge stated that was correct. Dr. Pasternak inquired about the September start date for the grant, and Ms. O'Mara said that the date was contingent on the Board's approval of the grant, as UNR approval had already been received. Mr. Lloyd asked if the statement of work met the State HIE program evaluation requirements, and Ms. O'Mara replied in the affirmative. She went on to outline the required four grant domains that would be evaluated:

- Adoption, use and impact of e-Prescribing;
- Adoption, use and impact of electronic transmission of lab results;
- Adoption, use and impact of electronic transmission of patient care summaries; and
- Adoption of electronic reporting of public health data.

Ms. Okubo restated the purpose of these evaluations, explaining that it would provide ONC with important baseline program effectiveness data across the states. In response to Ms. Aiello's inquiry about the UNR grant being a sub-grant, Ms. O'Mara stated that it was and had been reviewed by the DHHS Director's Office.

MOTION: Dr. Pasternak moved to approve the grant to University of Nevada, Reno College of Business for required Program Evaluation activities.

SECOND: Mr. Lloyd

APPROVED: UNANIMOUSLY

6. Review, Discuss, and Approve potential NV-HIE System consulting services agreement, and Determine any next steps

Mr. LaBarge presented a proposed master Statement of Work for Health Information Exchange (HIE) Consulting and Project Management Services. He reminded the Board that the approved

NV-HIE sub-recipient award budget includes an allocation of \$78,000 for contractual services, such as project management. Mr. LaBarge was requesting approval of the master statement of work and to spend the related budget allocation. Ms. Aiello noted that onboarding was included in the scope, and requested clarification regarding if this statement was for both IT and marketing. Mr. LaBarge responded that it was mainly for IT establishment. Ms. Montgomery inquired about the possible timeline. Mr. LaBarge stated that he was working on one, and would provide it to the Board. Mr. Lloyd questioned the need for a project manager, in addition to NV-HIE staff and Orion. Mr. LaBarge explained that Orion recommended four FTEs in order to keep the project timeline on track. Ms. Okubo said that hiring contractors for this work was practical, as they were only needed for a specific period of time versus for ongoing operations.

MOTION: Dr. Pasternak motioned to approve potential NV-HIE System consulting services statement of work with the funds of up to \$78,000 that was pre-approved by the Board.

SECOND: Ms. Montgomery

APPROVED: UNANIMOUSLY

3. Approve August 2, August 6, and August 16, 2013 meeting minutes

Mr. LaBarge recommended the Board approve all three sets of meeting minutes, with minor corrections noted on the August 2 minutes.

MOTION: Mr. Lloyd moved to approve the August 2, 2013 meeting minutes with noted corrections.

SECOND: Ms. Montgomery

APPROVED: UNANIMOUSLY

MOTION: Dr. Pasternak moved to approve the August 6, 2013 meeting minutes.

SECOND: Mr. Lloyd

APPROVED: UNANIMOUSLY

MOTION: Ms. Montgomery moved to approve the August 16, 2013 meeting minutes.

SECOND: Dr. Pasternak

APPROVED: UNANIMOUSLY

4. Present Treasurer's Reports for August 6, 2013 and September 3, 2013

Ms. Montgomery presented the Treasurer's Report for August 6, 2013, which was deferred to this meeting. She then presented the September 3, 2013 report. After brief discussion by the Board, Ms. Montgomery said that she would develop a standard Treasurer's written report that could be provided to the Board.

MOTION: Dr. Pasternak moved to approve the Treasurer's Report for August 6, 2013

SECOND: Mr. Lloyd

APPROVED: UNANIMOUSLY

MOTION: Dr. Pasternak moved to approve the Treasurer's Report for September 3, 2013

SECOND: Mr. Lloyd

APPROVED: UNANIMOUSLY

5. Present CEO Status Report

Mr. LaBarge, said that his major focus and effort have been on the contract negotiations with Orion Health and their Software as a Service (SaaS) Agreement and Statement of Work (SOW). While behind schedule, he stated that a reasonable target now seemed to be the end of September to reach consensus.

Key accomplishments/successes:

1. Hiring the key NV-HIE Staff:
 - i. Director Information Technology – The third in-person interview with a highly qualified candidate was last Thursday 9/29/13.
 - ii. An offer of employment was made, and the candidate accepted.
 - iii. A background check is in process with a potential hire and on-boarding date of this Friday 9/06/13.
- b. Administrative Assistant
 - i. Ms. Drew Simmons was hired and on-boarded. Please join me in welcoming her to the NV-HIE.
- c. Director Finance and Operations
 - i. Job Description is being reviewed
 - ii. Job posted targeted by Friday 9/06/13
- d. Director – Marketing and Communications
 - i. Job Description is being reviewed
 - ii. Job posted targeted by Friday 9/06/13
2. Finances
 - a. Self-sustainability Plan
 - i. A planning meeting was held with NV-HIE, NNDA, and OHIT to develop additional working capital that will provide on-gong sustainability last Friday 8/30/13
 - ii. Next steps are to develop a marketing plan with alternative revenue generating steps.
 - b. NV-HIE Budget
 - i. The proposed monthly Grant Advance Plan for the remainder of the Sub-recipient period through 2/07/14 has been proposed by NV-HIE, is being reviewed and is awaiting final approved by DHHS Fiscal.
 - ii. This will provide the necessary monthly operating capital advances to NV-HIE to support on-going operations.
 - c. Heritage Bank Checking Account
 - i. New bank signature cards are in-process for Ms. Linda Montgomery, our newly appointed Treasurer.

3. Commercial Office Space for NV-HIE Staff

- a. Inspected additional Carson City commercial office real estate with an Agent; and
- b. Working on submitting Letter of Intent for one of these properties.

Ms. Montgomery questioned the impact of the current contract negotiations target end date on the February 7, 2014 end-of-grant deadline. Mr. LaBarge stated that the NV-HIE staff was working with Orion Health to be sure that the grant requirements could be met by January 31, 2014. He noted that Orion said that they are committed to get this done by January 2014, for the February deadline date. Ms. Montgomery commented that while she trusted them to do so, she wanted to see something in writing. Mr. VanHorne said that he would inform his Orion executive team, during a call the next day, of Ms. Montgomery's request. Ms. Montgomery stated that she expected Orion to follow through. Otherwise, it would be time to start negotiating with the 2nd candidate from the vendor meeting, and Ms. Aiello stated her concerns as well. Ms. O'Mara agreed with Ms. Montgomery that it was critical for the contract to be in place as soon as possible. Dr. Pasternak said that the Board should just push forward with Orion, and that he agreed with Mr. LaBarge that Orion is the right choice for the NV-HIE, and to begin the process with another vendor would push the schedule back even further. Mr. Lloyd agreed with both Mr. LaBarge and Dr. Pasternak. Dr. Pasternak commented that the Sustainability Plan probably could not be determined until after the contract with Orion was in place. Mr. LaBarge agreed, as then there would be a better idea of the market drivers and related pricing.

MOTION: Ms. Montgomery motioned to approve the CEO Status Report as presented

SECOND: Dr. Pasternak

APPROVED: UNANIMOUSLY

8. Present and Discuss NV-HIE Board conflicts of interest policy to support current bylaws and meet 501(c)3 status requirements, and Approve the policy

Ms. Cramer discussed the changes that she made, as requested by the Board during the meeting on August 6, 2013, regarding loyalty and two pieces of financial interests. The Board tabled this item until the meeting on October 1, 2013, to allow for sufficient review and discussion.

MOTION: Ms. Montgomery motioned to table the NV-HIE Board conflicts of interest policy to support current bylaws

SECOND: Mr. Lloyd

APPROVED: UNANIMOUSLY

9. Determine and Approve future NV-HIE meetings

Mr. LaBarge presented options available to the Board. After discussion, it was agreed that Board meetings would remain being held on the first Tuesday of each month, for October and November. The next NV-HIE board meeting will be October 1, 2013.

Mr. Lloyd left the meeting at 3:25 pm, and a quorum was no longer present.

10. Informational Item: NV DIRECT Update

Ms. Hogan provided an update on NV DIRECT participation. Dr. Pasternak stated his ongoing concerns about NV DIRECT, particularly regarding impact on practice workflow. Ms. O'Mara acknowledged his concerns, explained that upgrades will be required in 2014 for EHR certifications and stated that she and Ms. Okubo would discuss these issues further during their regular calls. Ms. Okubo recognized his concerns, recommended that provider outreach should include how to integrate DIRECT into providers' workflow, and offered to share his concerns with ONC leadership.

11. Informational Item: Status of IRS Form 1023 filing to request 501(c)(3) status

Ms. O'Mara said that the amended Articles of Incorporation had been filed with the Nevada Secretary of State. At the request of Mr. LaBarge, she was working with Mr. Tiras on a request to expedite 501(c)(3) status for the NV-HIE. In addition to the recently revised bylaws, it is important to have an approved conflicts of interest policy.

12. Informational Item: ONC State HIE Program Site Visit

Ms. O'Mara reported that Ms. Okubo, Nevada's Project Manager, conducted an on-site grant visit on August 21-22, 2013. She reported that Ms. Okubo met with key DHHS and NV-HIE staff, and with each Board member, either in person or via telephone. Ms. Okubo thanked everyone who participated, and stated that overall she was pleased with Nevada's progress and confident that Nevada has the right components in place to be successful. She reiterated her concerns regarding getting the Orion contract in place, and staying on track with the implementation timelines. Ms. Okubo expressed her confidence in Ms. O'Mara, Mr. LaBarge, and Ms. Hogan, and thanked the Board for their efforts.

13. Public Comment

There was none

14. Adjournment

There being no further business to come before the NV-HIE Board, Ms. Aiello adjourned the meeting at 3:51pm.

September 26, 2013

Andie Wilson, CCIM
Brad Bonkowski, CCIM
Principals, Commercial Sales & Leasing
Coldwell Banker Commercial Premier Brokers
223 S. Division St., Carson City, Nevada 89703

RE: Letter of Intent – 3064 Silver Sage, Carson City, Nevada

Dear Andie:

I am presenting this Letter of Intent on behalf of my client, Nevada Health Information Exchange, to lease the property at 3064 Silver Sage, Carson City, Nevada:

TENANT: Nevada Health Information Exchange

USE: The tenant will use the space for their general office operations.

PREMISES: Suite A at 3064 Silver Sage including the kitchen and the mechanical loft.
Approximately 1,500 SF.

In the event that the property is leased or sold to another user who will be utilizing the north unit, the kitchen will be shared. Locking doors will be installed on both units and "kitchen rules" will be established.

OCCUPANCY: October 1, 2013

The tenant will have early occupancy for move-in and set-up upon execution of a lease document.

Landlord's receipt of rent for Oct., Nov., and Dec. + security deposit, and
Tenant's proof of insurance.

RENTAL RATE: The rent for the 1st year of the Lease Term shall be \$1,800.00 per month.
The tenant will pay the rent for the 3 months of rent upon execution of a lease.

FURNITURE AND FIXTURES: The furniture, flat screens and phones and phone system currently in the building will be included in the lease, and shall be returned to Landlord at the conclusion at the term in the same condition it's in today. This is a lease only and not a purchase or a lease-to-own.

LEASE TERM: The tenant will sign a 1 year lease.

The tenant will agree to the full payment of 3 month's rent, with payment for the remaining 9 month's rent to be made on Jan. 1, 2014 however if the funding is not renewed the tenant can vacate the building and not be responsible for the utilities, the security or any other aspect of the property.

The following will be inserted into the lease;

Lease Termination for Non-appropriation. The continuation of this Lease is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the United States Government and the Office of Health Information and Technology. The tenant may terminate this Lease, and Landlord waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the tenant's funding from State and/or federal sources is not appropriated or is withdrawn, limited, or impaired.

RENEWAL OPTION: None

EXPANSION OPTION: The Tenant will have a first right of refusal for the adjoining space, at the North end of the building. If the Landlord finds another tenant for that space this tenant will have 5 calendar days to add the space to their lease under the same concurrent terms. If the north space is leased to another tenant, that tenant will need access to the wiring closet in the attic for their own systems.

ADDITIONAL TENANT EXPENSES: Utilities (electric, gas, phones, and internet connections) will be paid by tenant. Cleaning for the common areas (restrooms) will be at Tenant's expense as long as the Tenant is the only one occupying the building. Once there is a second tenant in the North end of the building, Landlord will hire a cleaning service for the common areas and bill each tenant back for 50% of this cleaning fee.

LANDLORD CLEAN-UP: The tenant will take the property in its current condition; however, the landlord will warrant that the electrical systems and the plumbing as well as the HVAC are in good working order.

The landlord will remove signage, patch holes in drywall throughout the space and match the paint, and clean the carpet.

The Landlord will continue to maintain the building and the property throughout the term of the lease.

CONTINGENCIES: The lease needs to be approved by the Board of Directors of Nevada Health Information Exchange.

There needs to be adequate fiber for the internet connections that the Tenant requires.


REPRESENTATION: Argent Commercial Real Estate Services represents the tenant in this transaction. The Landlord will pay a commission equal to 3% of the value of the lease for the initial term.

Please respond to this LOI by September 27, 2013 at Noon.

This Letter of Intent is non-binding upon either party. It is meant to outline the major business terms of a lease and it is subject to the full negotiation and execution of a Lease Agreement. We look forward to working with you on a successful transaction.

Sincerely,

Sue Smith, SIOR

Signed 

Date 9/26/13

David LaBarge, CEO
Nevada Health Information Exchange

CONFLICT OF INTEREST POLICY FOR NEVADA HEALTH INFORMATION EXCHANGE

Article I **Purpose**

The purpose of the conflict of interest policy is to protect this tax-exempt organization's (the "Organization") interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer, director, staff member or contractor of the Organization or might result in a possible excess benefit transaction. Additionally, an officer, director, staff member or contractor of the Organization has a duty to give their undivided loyalty to the Organization. This duty requires the board members to use the organization's funds and property to advance the public benefit of the organization rather than private interests. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

Article II **Definitions**

1. Interested Person

Any director, principal officer, member of a committee with governing board delegated powers, staff member or contractor who has a direct or indirect financial interest, as defined below, is an interested person.

2. Financial Interest

A person has a financial interest if the person has, directly or indirectly, through business, investment, family or competing or affinity organizations:

- a. An ownership or investment interest in any entity with which the Organization has a transaction or arrangement,
- b. A compensation arrangement with the Organization or with any entity or individual with which the Organization has a transaction or arrangement, ~~or~~
- c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Organization is negotiating a transaction or arrangement- ,
- d. An office, serving on the board, participating in management, or being otherwise employed (or formerly employed) in any third party dealing with the Organization, or

- e. Using the Organization's time, personnel, equipment, supplies, or good will for other than the Organization's approved activities, programs, and purposes, except that minor, reasonable use is allowable at the discretion of the CEO or the Board.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

A financial interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a financial interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists.

The areas of conflicting interest listed above and the relations in those areas, which may give rise to conflict, are not exhaustive. Conceivable, conflicts might arise in other areas or through other relations. It is assumed that the board members, officers and management employees will recognize such areas and relation by analogy. The fact that one of the interests describe above exists does not mean necessarily that a conflict exists, or that the conflict, if it exists, is material enough to be of practical importance, or if material that upon full disclosure of all relevant facts and circumstances that it is necessarily adverse to the interests of the Organization.

Article III **Procedures**

1. Duty to Disclose

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors and members of committees with governing board delegated powers considering the proposed transaction or arrangement.

2. Determining Whether a Conflict of Interest Exists

After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

3. Procedures for Addressing the Conflict of Interest

- a. An interested person may make a presentation at the governing board or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement

involving the possible conflict of interest.

- b. The chairperson of the governing board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- c. After exercising due diligence, the governing board or committee shall determine whether the Organization can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
- d. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the governing board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Organization's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.

4. Violations of the Conflicts of Interest Policy

If the governing board or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

- a. If, after hearing the member's response and after making further investigation as warranted by the circumstances, the governing board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

Article IV **Records of Proceedings**

The minutes of the governing board and all committees with board delegated powers shall contain:

- a. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the governing board's or committee's decision as to whether a conflict of interest in fact existed.
- b. The names of the persons who were present for discussions and votes

relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

Article V
Compensation

- a. A voting member of the governing board who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that member's compensation.
- b. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that member's compensation.
- c. No voting member of the governing board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

Article VI **Annual Statements**

Each director, principal officer, member of a committee with governing board delegated powers, staff member and contractor shall annually sign a statement which affirms such person:

- a. Has received a copy of the conflicts of interest policy,
- b. Has read and understands the policy,
- c. Has agreed to comply with the policy, and
- d. Understands the Organization is a non-profit tax-exempt organization and in order to maintain its federal tax exemption it must engage primarily in activities, which accomplish one or more of its tax-exempt purposes.

In addition to the foregoing, each aforementioned person shall, on an annual basis provide the Organization with a list of organizations that person participates with which participation may directly or indirectly create a financial interest or other conflict of interest as described herein.

Article VII **Periodic Reviews**

To ensure the Organization operates in a manner consistent with the organization's tax-exempt purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

Conflict of Interest Policy – Nevada Health Information Exchange

- a. Whether compensation arrangements and benefits are reasonable, based on competent survey information and the result of arm's length bargaining.
- b. Whether partnerships, joint ventures, and arrangements with management organizations conform to the Organization's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further the organization's purposes and do not result in an impermissible private benefit or in an excess benefit transaction.

Article VIII
Use of Outside Experts

When conducting the periodic reviews as provided for in Article VII, the Organization may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.

[SIGNATURES FOLLOW]

DRAFT

IN WITNESS WHEREOF, we, being all of the directors of the Corporation have hereunto set our hands effective this _____ day of _____, 2013.

_____, Director

_____, Director

_____, Director

_____, Director

_____, Director

_____, Director

_____, Director

* * * * *

CERTIFICATE OF SECRETARY

I, _____, the undersigned, the duly elected and acting Secretary of the NEVADA HEALTH INFORMATION EXCHANGE (A Nevada Non-Profit Corporation), do hereby certify that the foregoing CONFLICT OF INTEREST POLICY of said Corporation were adopted by the Corporation on the _____ day of _____, 2013, by the Directors of said Corporation

_____, Secretary