

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

**February 7, 2014  
1:00 pm**

**Via Teleconference**

**BOARD MEMBERS PRESENT**

Brian Labus, Chair  
Elizabeth "Betsy" Aiello, Vice Chair  
Andrew "Andy" Pasternak IV, MD  
Lindsey Harmon, Secretary  
Mary Siero  
Linda Montgomery  
David LaBarge, NV-HIE CEO, Ex officio  
Lynn O'Mara, State Health IT Coordinator, Ex officio  
Amber Joiner, DHHS Deputy Director, Ex officio

**BOARD MEMBERS EXCUSED**

Eric Lloyd

**NV-HIE STAFF PRESENT:**

Chris Henkenius, NV-HIE Consultant  
Alan Tirus, NV-HIE Legal Counsel  
Carolyn Cramer, NV-HIE Legal Counsel  
Sherry Hayden, NV-HIE Director of Finance & Operations  
Jane Holman, NV-HIE Director of Marketing & Communications  
Hope Tingle, NV-HIE Staff

**DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS) STAFF PRESENT**

Stefani Hogan, OHIT

**OTHERS PRESENT**

Grayson Wilt, Nevada State Medical Association (NSMA)

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

Mr. Labus called the meeting to order at 1:00 pm. The agenda was posted according to Open Meeting Law requirements by 9:00 am on Tuesday, February 4, 2014. Ms. Tingle called the roll, and informed Mr. Labus that a quorum was present.

## **2. Public comment**

There was none.

## **3. Approve meeting minutes from January 31, 2014, board meeting**

Mr. Labus asked if there were any changes to the minutes of the January 31, 2014, meeting. Hearing none, the minutes were approved as written.

Mr. Labus advised the meeting attendees that he would be taking items out of order as Mr. Alan Tirus had a limited amount of time to be on the call. The items will be taken in the order of Item #7, Item #8, Item #4, Item #5, Item #10, Item #6 and then Item #9.

## **7. Discuss and decide on:**

- A. NV-HIE actions needed to dissolve the corporation**
- B. Funding options for the dissolution of the corporation**

Discussion related to **Item 7.A.** - Mr. Labus turned the meeting over to Mr. LaBarge who introduced Mr. Alan Tirus. Mr. Tirus advised there were two courses of action the Board could take with regards to the dissolution of the corporation.

Option 1: Do not dissolve the company but keep it active with the Nevada Secretary of State's Office by doing all of the annual filings to remain clear as a 501(c)3. The IRS is still 9-12 months out in processing applications submitted as far out as ours was. It is likely the entity would need to continue for another 24 months in order to ensure the tax exempt status was completed. The company would have to have a slate of officers, i.e. Chair, Vice-Chair, Secretary, and Treasurer, but they could all be the same person, as caretaker of the company. There would also need to be funds available to pay ongoing fees, and then the company could be dissolved once the 501(c)3 application had been processed.

Option 2: Formally cease operations completely and go ahead and file the papers with the Secretary of State's Office, and the Certificate of Dissolution once done. The entity continues for a period of time, while the assets are transferred and the debts have all been paid. Any funds remaining would then be returned to DHHS. The Board would continue as trustees during the windup. Once all things are filed, the entity no longer exists.

In either case, as long as the Board is operating in good faith, no fraud or conflicts of interest have occurred, the board members are unlikely to have any personal liability unless bad faith or bad behavior has occurred. If it is the Board's preference to go with Option 2, need to make sure everything is done completely. Mr. Tirus also recommended that an audit of the financials be performed by a CPA firm to ensure no questions will come up in the future.

Ms. Aiello asked what the need would be to go forward with the 501(c)3 application.

Mr. Tirus explained that we are allowed to operate as a 501(c)3 for income tax and sales tax purposes for up to 27 months while the application is being processed. There is a potential liability to the company if the application is withdrawn in that NV-HIE could then be liable for any income tax or sales taxes not paid on items purchased.

Ms. Aiello commented that if no company exists what would be the liability? Mr. Tirus indicated there would not likely be any liability but he didn't know for sure. Dr. Pasternak offered that it would still require some operating funds if the Board was still intact and wondered where those funds might come from. Mr. Tirus indicated the Board would not want to continue in a dormant state which would result in becoming a revoked entity with the Secretary of State's Office. Additional discussion ensued related to the risks related to not pursuing the 501(c)3 tax exemption.

Ms. Aiello asked that if the Board were to opt for Option 2, and the Board became the Trustees of the Company, what would be their responsibilities. Mr. Tirus advised becoming the Trustees of the Board was an Act of Law until everything is wound up, the board members become trustees. Once everything is done, the status of trustee dissolves. Ms. Montgomery indicated she thought we had been paying sales tax on our equipment purchases. Mr. LaBarge advised her that we had not. Ms. Montgomery feels the amount owed would be minimal as the largest expense had been to Orion which was not taxable, and that the Board should weigh the cost of staying in business against what might end up having to be paid in unpaid sales taxes that might be due. Ms. Montgomery said that the disposal of assets would be more than enough to pay any tax liability. Mr. LaBarge indicated that all assets would be turned over to DHHS as required by the grant and not liquidated.

Additional discussion ensued after which Ms. Aiello asked what motion would need to be made in order for the Board to pursue Option 2. In the event the Board decided to go with Option 2, Mr. Tirus had prepared a resolution which states:

RESOLVED, that the Company shall be dissolved, its liabilities shall be paid or satisfied, or adequate provision for payment shall be made, and its remaining property and assets shall be distributed to the NEVADA DEPARTMENT OF HEALTH AND HUMAN SERVICES;

RESOLVED, FURTHER, that the President of the Company is authorized to exercise any and all powers and rights of the Company as it relates to the business of the Company, including, but not limited to, the execution of any and all documents relating to the Company and any matters pertaining to the dissolution of the Company; and

RESOLVED, FURTHER, that the actions of the President previously taken in connection with the transactions contemplated by the above resolutions, if any, be, and they hereby are, in all respects, authorized, approved, ratified and confirmed as the acts and deeds of the Company.

**MOTION: Ms. Aiello made a motion to accept the Resolution as read by Mr. Tirus**

**SECOND: Dr. Pasternak**

**APPROVED: Unanimously**

Ms. Aiello asked if we need to retain legal counsel to assist with the termination of the Orion contract. Ms. Cramer, NV-HIE legal counsel, indicated she had worked with Mr. LaBarge in crafting a letter to Orion Health. Ms. Aiello also asked if Mr. Tirus is going to help with the dissolution of the corporation. Mr. Tirus has prepared the Certificate of Dissolution, but advised the Board that it could not be filed without there being a Treasurer of the Board. He followed up that as far as abandoning the 501(c)3 application, we just recently filed an amended application. We can send a letter to the IRS that the application is being abandoned.

At this point, Ms. Montgomery offered an explanation as to why she had resigned her position as Treasurer of the Board, and apologized for any inconvenience to the company that it might result in. Mr. Labus was under the impression there were funds in the grant for legal assistance which Mr. LaBarge confirmed.

Discussion related to **Item 7.B** – Mr. LaBarge is working with DHHS to procure a grant in the amount of \$30, 190 which will carry a skeleton staff through to the end of February 2014. Ms. Aiello asked if we had given written notice to our vendors, which Mr. Labus asked her to hold off on until Item 6.

**8. Discussion and action regarding the replacement of the NV-HIE Treasurer.**

Mr. Labus advised the board members that a Treasurer was needed in order to file the paperwork with the Secretary of State's office and any other corporate paperwork needed to dissolve the corporation. He asked for a volunteer to act in the capacity of Treasurer. Dr. Pasternak volunteered to act in that role.

**MOTION: Ms. Siero made a motion to approve Dr. Pasternak as the new Board Treasurer**

**SECOND: Ms. Aiello seconded the motion**

**APPROVED: Unanimously**

**4. Approve amendment to the By-Laws to change the fiscal year from the current fiscal year of January to December to fiscal year July to June**

After some discussion, Ms. Harmon made the following motion:

**MOTION: Move to amend the By-Laws to change the fiscal year from a calendar year to a July to June fiscal year.**

**SECOND: Ms. Siero**

**APPROVED: Unanimously**

**5. Review and approve NV-HIE Fiscal Policies and Procedures:**

- A. Employee Handbook**
- B. Travel Reimbursement Policy**

Discussion related to **Item 5.A.** - There was some discussion about the need for these policies given that the Board had opted to dissolve the corporation. Mr. LaBarge indicated these policies and procedures had initially been scheduled for discussion at the January 15, 2014, board meeting but due to time and room constraints, they were not addressed. The need to approve these items is based on Section GIR-14-6.2. of the Grant Guidance document which reads:

“The Grantee shall maintain effective control and accountability for all grant funds, property, and other assets. Good internal control necessitates that fiscal responsibilities be clearly established. Accounting functions should be separated to the fullest extent possible so that no one person authorizes, executes, and approves the same transactions. Policies covering personnel and accounting procedures and separation of duties must be documented in a policies and procedures manual or other similar document.”

As a result, in order to be in compliance with the requirements as a sub-recipient of the ARRA grant from DHHS, these policies and procedures need to be in place. There was some discussion related to the lines of authority for check signing. The discussion resulted in some additional changes being made to the policies and procedures. With those changes in mind, Ms. Aiello made the following motion:

**MOTION: Ms. Aiello made a motion to approve the Fiscal Policies and Procedures with the removal of paragraphs 2 and 3 under the Procedures in the Lines of Authority section. After some discussion, Ms. Aiello amended her motion to leave in the language in paragraphs 2 and 3 which states “These purchases require 3 estimates for comparison.”**

**SECOND: Dr. Pasternak**

**APPROVED: Unanimously**

Discussion related to Item 5.B. – Ms. Aiello pointed out there was a typo in this policy, and made the following motion:

**MOTION: Ms. Aiello made a motion to approve the Travel and Expense Reimbursement Policy with the correction of the typographical errors included.**

**SECOND: Ms. Siero**

**APPROVED: Unanimously**

**10. Discuss and decide how to proceed with the NV-HIE audit and what funding options there are to pay for it.**

Ms. Hayden, Director of Finance and Operations, advised the Board that an RFP had been sent out in preparation to file the IRS Form 990 or 1120, whichever we were going to end up doing. The Scope of Work is fairly expensive. The bids for a compliance audit have come back between \$15,000 and \$16,000. Ms. Aiello asked if these funds were included in the grant. Ms. Hayden advised there had been a placeholder in the budget submitted to DHHS for the new grant, but that it had been removed by DHHS in their budget. Ms. Aiello asked what other funding options were available. Mr. LaBarge stated there were no other funding options available, and reminded the Board that Mr. Tirus had recommended an audit be performed as part of the close out.

Ms. Montgomery asked if there were additional funds available through DHHS. Ms. Joiner explained that they need to do additional investigation and research into the audit needs. She also stated they (DHHS) were contacting one of the CPA firms they use to see if they could get a lessor quote. Ms. Aiello was under the impression the grant required an audit be done. Ms. O'Mara stated that because DHHS is the grantor, they would do an audit. They need to get guidance if it would meet the needs for the IRS 990 filing. Mr. Labus asked if there is potential for funding, knowing the audit wouldn't be complete in time to get the sub-grant. Ms. Joiner indicated the funding is outside the timeline of the sub-grant. Ms. Aiello asked that if the board no longer exists upon dissolution, can a group of trustees accept a sub-grant. Ms. Joiner indicated that was a legal question which would need further research. At this point, Mr. Labus referred to NRS78.585 which states, to paraphrase, "The Board can do whatever it needs to do in wrapping up the business."

**MOTION:**

**SECOND:**

**APPROVED:**

**6. Discuss and decide on:**

- A. NV-HIE actions needed for the closeout of the sub-grant**
- B. Funding options for the closeout of the sub-grant**

Ms. Aiello asked for a written list of the termination notices we have sent out so far and what the contracts read as far as timeframes are concerned. Mr. LaBarge indicated he and Ms. Hayden had been working on a list. A letter has been written and sent to Mr. Sean Donohue, Senior Vice President at Orion Health. Ms. Aiello asked if we had sent the letter via email or did we fax a copy of the letter to Mr. Donohue. Mr. LaBarge advised he had sent the letter to Mr. Donohue via email and followed it up by sending the original, signed letter to Mr. Donohue via United States Postal Service. Ms. Aiello asked if the same day notice is okay for the termination of the contract. Ms. Cramer advised that we have gotten all deliverables to date, and that nothing else is being done by Orion Health. Mr. LaBarge told Ms. Aiello that he has been in conversation with Orion Health letting them know of the Board's decision. Ms. Aiello would like to see the contracts and the status of them. Mr. LaBarge assured Ms. Aiello he would give a full accounting of the status of the contracts. Ms. Aiello asked about the status of the board credit

card. Mr. LaBarge indicated the company credit card, which had to be applied for in his name, is awaiting a FedEx charge for the packet Ms. Montgomery returned, and that once that charge is processed, the credit card will be closed.

**MOTION:**

**SECOND:**

**APPROVED:**

**9. Discuss and decide on the duties and responsibilities of the NV-HIE Agents.**

Mr. LaBarge told the Board he and Ms. Hayden have everything they need to proceed with the close-out tasks. They have notified all of the vendors and have received an approved budget. The bills that are due are being paid, and the 1099's have been processed. Mr. LaBarge will work with Mr. Tirus to write the letter to the IRS. Ms. Hayden indicated NV-HIE utilizes Intuit as the provider for the payroll processing. They (Intuit) will file all the final paperwork for payroll purposes. Mr. Labus indicated another board meeting would be scheduled as needed.

**MOTION:**

**SECOND:**

**APPROVED:**

**11. Public Comment #2**

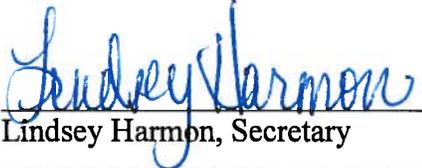
There was none.

**12. Adjournment**

Mr. Labus adjourned the meeting at 2:40 pm.

**CERTIFICATE OF SECRETARY**

I, Lindsey Harmon, 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 Meeting Minutes of said Corporation are a true and correct reflection of the Board of Director's Meeting held on the 7 day of February, 2014.

  
Lindsey Harmon, Secretary

