

**Nebraska Commission for the Deaf and Hard of Hearing
Full Commission Board Meeting
1313 Farnam, Conference Room 227 Omaha, NE**

December 11, 2015 Meeting Minutes

A. OPENING

Chairman Dr. Frank Turk called to order the September 11, 2015 meeting of the Nebraska Commission for the Deaf and Hard of Hearing full commission board meeting at 8:45 a.m. at 1313 Farnam Conference Room 227 in Omaha, NE.

B. NOTICE OF OPEN MEETING

Chairman Dr. Frank Turk announced the notice of the meeting was duly given, posted, published, and tendered in compliance with the Open Meetings Act, and all board members received notice simultaneously by email. Publication of official notice of the meeting appeared in the December 4, 2015 edition of the Omaha World Herald, a legal newspaper of general circulation in this state, as required by the Open Meetings Act. The agenda was kept current in the Nebraska Commission for the Deaf and Hard of Hearing's office and on the Board's website. Materials generally used by the Board for this meeting were available in the public folder for inspection by the public, and in accordance with the Open Meetings Act. A copy of the Open Meetings Act was available for the duration of the meeting.

Dr. Turk informed the Board that Dr. Lomicky, Secretary; is not in attendance at the board meeting today so Natasha Olsen; Business Manager would be calling for the vote during today's board meeting.

C. ROLL CALL

For the record, Board Members Margie Propp, Norm Weverka, Gina Frerichs, Stacie Ray, John Hogue and Frank Turk were present. Board Member Carol Lomicky was absent and excused and Jeremy Fitzpatrick arrived at 9:03 a.m. Also present were Director, John Wyvill and Business Manager, Natasha Olsen. Interpreters present were Ronda Rankin and David Borgaila. Mydge Heaney was present for CART Services.

D. REVIEW OF AGENDA

Executive Director Wyvill reviewed the agenda with the Board Members.

E. ACCEPTANCE OF AGENDA

Chairman Turk reminded those present for the meeting that the agenda cannot be altered 24 hours prior to the meeting except for emergency items according to the Open Meetings Act. Board Member Hogue moved to adopt the agenda as printed. Board Member Weverka seconded the motion. With no further discussion, the motion carried with Propp, Frerichs, Hogue, Ray and Turk voting aye.

F. ACCEPTANCE OF MINUTES

Board Member Propp pointed out that on page 8 of the September 2015 meeting minutes her question was “is it possible for a complaint to be filed against a hearing entity and/or the deaf individual?” not “When a complaint is filed, who is it filed against?” as the draft minutes reflected. In regards to Rule 51 in talking about the interpreters that are grandfathered in, the first outline had all current interpreters grandfathered in and would not have to be retested, however; the interpreters would be grandfathered in if they scored a 3.5 to 3.9.

Additional changes were pointed out to the Board from a member in the audience on the October 30, 2015 minutes. Under the acceptance of the agenda and the date when the minutes were ready for public inspection had 2014 listed as the year and needs to be updated to 2015.

Board Member Propp moved to accept the September 11, 2015 and October 30, 2015 board meeting minutes as amended. Board Member Ray seconded the motion. The motion carried with Frerichs, Hogue, Weverka, and Turk voting aye.

G. CHAIRMAN OF THE BOARD’S REPORT

1. Chairman Turk started his report with recap of what has happened at NCDHH since the last board meeting. Dr. Turk informed the Board when Governor Ricketts took office he asked that all state agencies adopt what he calls leadership with an attitude of dependency with others and that NCDHH has responded to the call and developed positive and productive relationships with a good number of agencies and organizations across Nebraska.
2. Dr. Turk also talked about five individuals from high school that attended the Jr. National Association of the Deaf national convention in Orlando, FL and they won the bid to the host the 2017 convention in Omaha.

Dr. Ray added to Dr. Turk’s report about traveling to Gallaudet. Dr. Ray is a member of the Coalition for Global Hearing Healthcare and pointed out that this is the most amazing convention that she has been to over the years. There were people from Congo, Marshall Islands, Philippines. Over 50 different countries and all working towards the same goal that we're working on here, but many, many, many steps behind.

Dr. Ray pointed out that a lot of individuals who are deaf and hard of hearing have no access to education in these countries. People have no language because there's nobody to teach them sign language and the work that NCDHH is doing is remarkable because the agency is paving the way for countries outside of the United States and definitely outside of Nebraska.

3. a. Director Wyvill proceeded with the legislative agenda on the federal and state level for the commission. Director Wyvill pointed out there are three topics on the federal level and the recommendation to the board is to write two letters of support for two of the items and one letter against. Director Wyvill gave background on the first item which is IDA and IDA is the education act that governs relationships in Nebraska for special education and this is up for reauthorization. Director Wyvill informed the Board that the National Association for the Deaf and many individuals decided that the voice of deaf and hard of hearing students needed to be heard and the way they did that is basically propose and introduce a separate piece of legislation called the Alice Cogswell and Ann Sullivan Act which amends the Individuals with Disabilities Act. Director Wyvill stated as a reflection of policy is this legislation to improve deaf and hard of hearing outcomes for students matters and we want to be supportive of it. So that is the first recommendation would be that the board be supportive of the legislation.

Director Wyvill explained the second item on the federal agenda is to help extend the Auditory Relief Act. This allows the government to provide hearing aids for senior adults and will basically amend the Social Security Act to allow Medicare to cover hearing aids. This is being supported and pushed by the Hearing Loss Association of America and Director Wyvill asked the board to say hearing aid coverage is an important issue here in Nebraska and elsewhere and the Commission is in favor of the legislation.

The third item was brought to the attention of the Commission by Dr. Jan Moore. Dr. Moore is a previous board member and audiologist. Director Wyvill explained after discussing the topic with Dr. Stacie Ray it should be to add this to the legislative agenda. The Veterans Administration is looking for hearing aid specialists to assist and support in placement of hearing aids in veterans. The concern is that there will not be an audiologist assisting and supporting a veteran in making sure their hearing health is being cared for. The recommendation to the Board is to oppose this legislation along with the Speech/Language Association because of the concern that it might compromise the delivery of hearing health to veterans. Board Member Weverka brought up his experience with the VA and stated that many military personnel have to wait for long periods of time due to all of the paperwork that is involved and they may have never gotten the assistance that was needed. Board Member Frerichs talked about

her experience as a veteran and now a nurse that works in the outpatient clinic for the VA. Ms. Frerichs explained that the VA will not allow her to discuss the services of the Commission with the veterans. Ms. Frerichs stated that the VA is changing outpatient clinics and providing audio booths at some locations. Dr. Ray's expressed concern with this because it is compromising the understanding of the auditory system and possibly compromising the treatments the veterans would receive. Dr. Ray also pointed out that many veterans lost their hearing from their military service and have waited 20 to 30 years before seeking treatment. Dr. Ray also stated that it's not the hearing aids that is the delay, it's the initial evaluation that is time consuming.

Board Member Hogue made a motion to approve the recommended action on the three proposed federal legislative items. Board Member Propp seconded the motion with Frerichs, Fitzpatrick, Ray, and Turk voting aye.

b. Director Wyvill proceeded to discuss the state legislative agenda items. The first item Director Wyvill discussed was the need for a statewide ADA Coordinator position within Nebraska State Government. Disability Right Nebraska is pursuing this and the extent of the Board's advocacy would be a letter of support and testifying if necessary. Director Wyvill had a conversation with the Director of the Department of Administrative Services and a genuine interest was expressed assuming funding for the position would be available.

Director Wyvill proceeded with a request made by Board Member Lomicky expressing a need to have the legislature mandate captioning in all Nebraska Movie theaters. Director Wyvill reported that on the national level, NAD and all the stakeholders have entered into an agreement with the movie association to try and move forward with closed captioning. We're only aware of one state, the state of Hawaii that has an open captioning requirement. Director Wyvill recommended that due to the upcoming legislative session being a short session the Commission does an interim study. Director Wyvill full expects movie theaters to oppose this for cost reasons. Board Member Propp asked if this is the captioning that is on the screen or where you hold a device. Director Wyvill stated the request is for open captioning where it is on the screen. Board Member Hogue asked if there was a way that the Board could work together with surrounding states because there is no theater where he lives. Board Member Hogue stated he has to drive to Saint Joe, Missouri if you want to see a movie. Director Wyvill asked what Board Member Hogue would expect to accomplish with the collaboration because the Commission can only work towards legislation in Nebraska. Board Member Hogue requests that we talk to neighboring states and ask if they would like to be involved. Director Wyvill stated that discussions with surrounding states could be part of the interim study and then we can reach out to other

groups for support including NEAD, Hearing Loss Association of America, Omaha Association for the Deaf, and Lincoln Association for the Deaf. Board Member Frerichs asked if this would include drive in theaters too because there are a few in the state. Director Wyvill stated that would all depend on the requirement of what is requested in the law. Board Member Weverka added that this is great for Nebraska and that the Commission is getting things passed but for small theaters this may cause a hardship for them and may cause them to close down all together. Dr. Turk requested to keep the agenda moving and move onto the next item.

Director Wyvill listed the third item is pediatric hearing aid coverage. Director Wyvill explained that currently, in Nebraska, hearing aid coverage is not considered an essential healthcare benefit and since it is not an essential healthcare benefit then the insurance companies in Nebraska have no obligation to provide this with insurance. Director Wyvill explained that we requested a comment to the federal government asking to include hearing aid coverage as part of their benchmark plan and they replied stating they were not including hearing aid coverage. Why that is so important is if it's part of their benchmark, they pay for it. If it's part of the benchmark plan, then it does not fund the funds do not come out of taxpayer's dollars. In conversation with the state insurance department, we also learned that the insurance department for the last five years has been trying to get clarification from CMS and the federal government as to whether or not it's an essential healthcare benefit if we say it is. The reason why that is important is, if it's an essential healthcare benefit and a law is passed that says essential healthcare benefit is state law that means that the federal government will have to pay for the insurance coverage in Nebraska. If they say no, then it comes out of the state's taxpayer's money. Director Wyvill explained that it would be similar to autism legislation that was introduced and passed a year or two ago which would there would be a financial cost. If there's a financial cost, it's going to be extremely difficult to get legislation passed at the state level because of the fiscal impact. And that also complicates things because there's no clear answer for CMS. Hence we sent the letter, copied the congressional delegation asking for guidance and clarification on which way to go. Director Wyvill added that he doesn't anticipate getting that guidance before this legislative session period for filing bills closes. Director Wyvill also added that the Department of Insurance is frustrated, the Commission is frustrated, and the legislators are frustrated. The governor's office is commenting that they are not in favor of any mandates on a state level that will require insurance companies to have to do this, so the Board need to figure out how to proceed.

Director Wyvill addressed that conversations with Dr. Ray about the future of the Hearing Aid Bank. The Sertoma Club supports the Hearing Aid Bank and their membership is getting smaller. The Sertoma Club sponsors three fundraisers. The Beer

Fest which the proceeds go to another organization. Another fundraiser that is golf with the proceeds going to Tabitha Meals On Wheels. Sertoma no longer sponsors a pancake feed and that was some revenue that would come to the Hearing Aid Bank. In the past, the Commission used to give money to the Hearing Aid Bank, however; Ms. Olsen was unable to find any statutory authority that would allow us to fund money to the Hearing Aid Bank. Director Wyvill explained the importance of the hearing aid bank and in 2014, the Hearing Aid Bank provided 37 kids with hearing aids. That means there were 37 kids in Nebraska that didn't qualify for Medicaid qualify for insurance. Director Wyvill suggested an interim study for the Commission with the intention to find resolutions that will lead to successful legislation in 2017. Director Wyvill also stated that we have to be careful of unintended consequences which could be interfering with reimbursement to audiologists.

Board Member Fitzpatrick added that Director Wyvill has been doing a fantastic job with moving this issue. It's a very complicated issue and Board Member Fitzpatrick worked on it awhile before starting on the Board. Board Member Fitzpatrick requested to make it a priority in 2016 and Director Wyvill summed up the uncertainties which are the fiscal impacts and unintended consequences and not effectively being able to get anything done during the short session. Dr. Ray interjected by saying she appreciates all the time and effort that has been put into this but right now there is hearing aid coverage for every child who needs it and it's zero out of pocket expense to the parents.

Board Member Weverka requested to go back to the ADA Coordinator position and if the position will be federal or state and what kind of authority they will have. Director Wyvill explained under Title II of the Americans with Disabilities Act, the state is supposed to have an ADA Coordinator and what those duties are defined. Board Member Propp added that the first step is to get the position and then it's the Commission's responsibility and all the other disability organizations to monitor and ensure the person is doing their job.

Board Member Propp made a motion to accept all proposed state legislation items. Board Member Hogue seconded the motion with Frerichs, Fitzpatrick, Ray, Weverka and Turk voting aye.

Break from 10:15 a.m. to 10:30 a.m.

4. Director Wyvill discussed the conversations had with the Board about the possibility of board members traveling in the upcoming year, assuming that funding is available, that would benefit them as a board member. Several members of the Board have

expressed interest in traveling to various conferences but there needs to be discussion on how to choose who get to go to what conference. Board Member Fitzpatrick asked is board members have gone in the past and Director Wyvill explained in the past only the Director went to conferences. Board Member Weverka added that he is in support of staff attending conferences because they are working every day with the individuals that we serve and Dr. Turk agreed. Board Member Propp agreed with Board Member Weverka that the priority needs to go to the staff. Board Member Fitzpatrick recommended that in March a list of travel be presented to the Board for approval. Ms. Olsen interjected that some of the conferences have early bird registration fees that can save the agency money and are added to the board meeting agendas based on those dates or the closest board meeting to the conference. The Early Hearing Detection & Intervention was added to this agenda because it is being held in March. Dr. Ray withdrew her request to attend the Early Hearing Detection & Intervention conference not knowing what the budget was and priority going to staff. Discussion was had on different employees going to conferences like the National Association for the Deaf Conference. Ms. Olsen pointed out that it's important that staff who is not deaf or hard of hearing to also get to attend these conferences so they are familiar with issues that the clients we serve face.

Board Member Propp followed up stating that the Board was in agreement that staff is the priority to go to conferences and Director Wyvill stated that is enough direction from the Board and no formal vote is needed.

5. A. Director Wyvill explained that there is funds in the agency budget to have Board Members participate in professional development to better serve each of them in their role on the Board. There are several conferences in 2016 like the National Association for the Deaf and Hearing Loss Association of America conferences. There is no action needed today but if there is a conference that interests you, you need to make your requests known.

H. FINANCIAL REPORT

1. Natasha Olsen, the Business Manager for the agency, discussed the NCDHH budget with the Board. Ms. Olsen discussed the 2015-16 budget. Ms. Olsen pointed out that we are currently 7% under spending on our budget for the year. She also noted that a majority of the carryover money has been allocated under “contractual expenses” for the start up expenses of Scottsbluff and the Kearney office. This money can be re-allocated if need be. Ms. Olsen discussed the interpreting services expense has gone up due to the staff interpreter working on the rules and regulations draft and we expect to see that expense go back down. Ms. Olsen also explained that the board and lodging expense is for all hotel rooms and food expense for board members and staff when they travel.

2. Ms. Olsen presented an updated Dress Code Policy to the Board due to some comments made by the public and staff critiquing staffs dress attire. Director Wyvill and Ms. Olsen decided it was best to have a dress code policy so that all staff was held to the same standard. Ms. Olsen informed the Board that the policy has been approved by the Employee Relations office. Board Member Frerichs made a motion to approve the updated dress code policy and Dr. Ray seconded the motion with Propp, Hogue, Fitzpatrick, Weverka and Turk voting aye.

I. EXECUTIVE DIRECTOR'S REPORT

1. Director Wyvill explained every two weeks he sends Dr. Turk an overview of his activities. Director Wyvill reviewed a few things that the agency has been working on.
 2. a. Director Wyvill reviewed the monthly reports that are completed by Field Reps and all staff. The average expectations is to do four presentations a month. One booth a month and ten appointments a week. The reason we track this is for performance standards and accountability. Director Wyvill pointed out that hearing aid bank application approvals and denials have also started to be tracked.
 - b. Director Wyvill proceeded to discuss the work that has been done in Scottsbluff since the office has been re-opened. The numbers of the clients served so far was shared with the senator in Scottsbluff who helped get the office re-opened and he is very pleased with the success of the office.
 - c. Director Wyvill gave an update on the Kearney office and reported the space is on track to be completed by January 4, 2016. There will be a formal announcement when we are moved in and we are very excited. Director Wyvill then informed the Board that the Lincoln office remodel is not moving as fast as we had hoped. Ms. Olsen proceeded to tell the Board that the remodel is at a stand still. DAS and LMEP are working through the legalities of the contractors. Director Wyvill and Ms. Olsen are hopeful the project can be completed by June 30, 2016.

Director Wyvill asked if there were any other questions and Board Member Weverka brought up a concern about staff opening mail that is addressed to the board members. Ms. Olsen explained that is policy, not just for the agency but statewide, that mail is date stamped. Director Wyvill stated typically if the mail has not already been opened, if it's a letter directed to the board member with confidential on it, that goes to the board member without being opened, and typically I'll send an email saying we have confidential mail that is coming your way, and generally it should not be opened. Board Member Fitzpatrick asked if the state provides direction of what needs to be

saved or not. Ms. Olsen explained that the agency has a retention schedule of how long we have to keep something and if the agency's retention schedule does not address it then we have to look at the state's retention schedule. Ms. Olsen also added that if a Board Member gets a complaint about a staff member then that needs to be added to their file or if it's a complaint on an interpreter that needs to be routed to the Interpreter Program Assistant. It was discussed that any mail to board members is considered an agency document. Board Member Weverka commended Director Wyvill on taking action to resolve the complaint.

3. Director Wyvill pointed out NCDHH leadership opportunities that the staff is participating in. Brenda Chappell is participating on the State Rehab Council as a voting member. The State Rehab Council works closely with Nebraska VR on employment outcomes. Kim Davis is participating on the Nebraska Statewide Independent Living Council and they support individuals with disabilities.
4. Director Wyvill discussed the Lincoln Public School audit. The Lincoln Public Schools have made a decision to employ an outside auditor to review and evaluate the special education program. This was commented on in the newspaper, and after discussing with our team members, Board Member Propp and Director Wyvill are part of a number of work groups and discussed a variety of areas that need to be improved in the area of special education especially with LPS, a letter was developed and transmitted which outlines specific recommendations as to what NCDHH wants to be done at LPS. Board Member Propp added that deaf and hard of hearing is one piece of the audit and the Commission needs to ensure it doesn't get lost in the big picture of the audit. Board Member Ray commended Director Wyvill on writing the letter to LPS and appreciated how the ending was worded "because it's the mutual goal and desire to improve the educational employment outcomes."
5. Director Wyvill stated this is a follow up with the conversation regarding hearing aid coverage. One of the recommendations that was made was that we can petition the insurance company to specifically change the policies to include hearing aid coverage. A letter was sent to Ruth Jones, the director of state personnel. Director Wyvill received a response that the letter is under review. That review, along with any other requests has to be reviewed with an actuary and see what the potential cost for that would be, and they'll be making a determination in March as to whether or not as to whether or not to include this.
6. Director Wyvill informed the Board that he met with Courtney Phillips, the CEO of HHS to discuss a number of different issues and concerns that deaf people have and hard of hearing trying to access services within Health and Human Services specifically

their call center and something called ACCESS Nebraska for those benefits. Director Wyvill stated there's a couple of things that the Commission is working on. Peggy Williams, and Kim Davis are designing two training programs for HHS at our request. They're going to have a training program for educational awareness on how to work with deaf and hard of hearing individuals on an agency wide level for 5,000 plus employees.

Second, there will be a separate training available for the call center. An individual, through no fault of their own, had their benefits terminated by HHS and was told it was going to take a couple of months for their benefits to be restored. Peggy Williams was the person as the point of contact regarding this issue. Director Wyvill discussed the situation with Ms. Williams then proceeded to email Courtney Phillips directly and informed her of the problem and what needed to be done to have her benefits restored. Ms. Williams was told would take 60 days to have the woman's benefits restored. There was some extenuating circumstances but it was done the same day the letter was sent. So Health and Human Services made the changes and did that. Ms. Williams wrote a letter for HHS because she wanted to commend Health and Human Services over 34 years. Ms. Williams has never seen the agency move as fast as they did and wanted to make sure to applaud the leadership of Health and Human Services and let the governor and the chair of the Health and Human Services committee in the legislature know that they're doing that.

7. Director Wyvill updated the Board on the advocacy handbook webinars. The advocacy handbook is going to be put into an ASL version for our deaf consumers that rely on ASL as their primary form of communication. In the process this outlines a timeline, our expectation is that we want everything to be done by the end of fiscal year in terms of webinars and taped presentations.

J. INTERPRETER PROGRAM REPORT

1. Director Wyvill gave an update on Title 96 the rules and regulations for our agency that governs the interpreters. The original language edit has been approved by the governor and it's at the Secretary of State's office for their final approval. The next bill which is that has the VRI providers and the community interpreters expansion has been sent to the Governor's office for review. Director Wyvill informed the Board that Crystal Pierce, Interpreter Program Assistant; is working on creating applications for the VRI providers.
2. Director Wyvill reported to the Board that with Board Member Propp's successful advocacy, Rule 51 went before the Board of Education last week to be voted on and it was approved. The next step for Rule 51 is the Governor's office and the Attorney General's office.

K. MARKETING REPORT

1. Director Wyvill updated the Board on the marketing report. The Commission's facebook page we had 789 followers in August. As of yesterday, last night, we have 914 people following our Facebook. So every time we put an announcement on Facebook, at least over 900 people read it. In terms of the statistics, the deaf awareness proclamation ceremony there was over 5,700 people that viewed our Facebook site.

L. OTHER BUSINESS

1. Director Wyvill updated the Board that Peggy Williams was awarded a grant from the Enrichment Foundation. Ms. Williams will be hosting a workshop in Omaha on April 9th with the grant.
2. Director Wyvill discussed the NET Specials that the Commission has previously produced with NET. Ms. Williams reviewed the topics previously covered and recommends the next NET special, assuming funds are available, relate to interpreting.

M. SUBCOMMITTEE DISCUSSION

No Discussion

N. NEW BUSINESS

The Board had a working lunch at 12:00 p.m. During the lunch Dianne Muelleman and Steve Manning, two previous board members were present to receive their Distinguished Service Award for their service on the Board.

O. PUBLIC COMMENT

Ms. Tami Richardson-Nelson came here to voice some concerns from Omaha Association for the Deaf (OAD). Ms. Nelson informed the Board that OAD would like to be involved in the various activities that the Commission hosts. Ms. Richardson-Nelson stated We feel strongly that all organizations need to be considered and we ask to become part of each event. Director Wyvill confirmed that for future events OAD will be invited to collaborate with NCDHH.

P. ADJOURN

Board Member Weverka made a motion to adjourn the December 11, 2015 board meeting at 12:54. Board Member Propp seconded the motion with Frerichs, Ray and Turk voting aye.

These minutes were available for public inspection on December 21, 2015, in compliance with Nebraska Statute §84-1413 (5).