

## **Brain Injury Oversight Committee Meeting**

**July 28, 2021**

**1:00 pm to 3:00 pm**

**Meeting held:**

**virtually via Zoom and in person at UNMC College of Public Health, room 3013**

### **DRAFT MEETING MINUTES**

*Public notice of upcoming meetings will be available on the University of Nebraska Medical Center (UNMC) website <https://www.unmc.edu/outreach/bioc.html> at least 10 days before each meeting.*

**MEMBERS PRESENT:** Joni Dulaney, Anna Cole, Peggy Reisher, Shir Smith, Shauna Dahlgren, Dr. Kody Moffatt, Jeff Baker, Kevin Karmazin, Lindy Foley, Sheri Dawson, and Judy Nichelson

**MEMBERS ABSENT:** Caryn Vincent

**UNMC STAFF PRESENT:** Mike Hrcirik

#### **CALL TO ORDER**

The meeting of the Brain Injury Oversight Committee commenced at 1:00 p.m.

#### **ANNOUNCEMENT OF THE AVAILABILITY OF THE OPEN MEETINGS ACT**

Public notification of this meeting was made on the UNMC website and Mike Hrcirik posted the open meetings act in the chat box. Shauna Dahlgren stated the meeting would be recorded since it is a new rule of the open meeting act. A copy of the recording can be made available upon request from Jamie Stahl [Jamie.stahl@unmc.edu](mailto:Jamie.stahl@unmc.edu) or 402-559-6300.

#### **INTRODUCTIONS AND ROLL CALL**

Shauna Dahlgren called on each committee member to introduce themselves.

#### **AGENDA APPROVAL**

The agenda was reviewed. Judy Nichelson asked that the letter from the Attorney General be added to the agenda. Peggy Reisher stated it been included in the meeting materials but got left from the agenda inadvertently. Dr. Kody Moffatt moved to approve the agenda with the addition of the Attorney Generals letter. Lindy Foley seconded the motion, and the motion was carried by unanimous consent.

#### **APPROVAL OF PREVIOUS MEETING MINUTES**

The minutes from the April 21, 2021, meeting was reviewed. A motion was made by Jeff Baker and seconded by Dr. Kody Moffatt to approve the April 21 meeting minutes. There were no objections to the motion, and it was carried by unanimous consent.

#### **COMMITTEE DISCUSSION OF PUBLIC COMMENT PERIOD**

Chair, Shauna Dahlgren introduced the idea of setting up a limited amount of time planned for public comment during the BI oversight committee meetings. Committee members discussed what they felt would be an appropriate amount of time for public comment based on their experiences with other

public meetings they either attended or facilitated. Judy Nicholson was opposed to the idea of setting a time limit for public comment as she felt the public should have the opportunity to be heard during the public meetings. Jeff Baker said that according to the open meetings act the chair has the right to determine how long public comment is heard at each meeting. After further discussion Dr. Kody Moffatt made a motion to limit public comment to 15 minutes during each meeting and Shir seconded the motion. Roll call vote was taken. Those voting yes were Joni Dulaney, Anna Cole, Peggy Reisher, Shir Smith, Shauna Dahlgren, Dr. Kody Moffatt, Jeff Baker, Kevin Karmazin, Lindy Foley, and Sheri Dawson. Judy Nicholson voted no.

#### **PUBLIC COMMENT**

Tiffany Armstrong read her statement indicating she appreciated the work of the BI Oversight Committee. As a brain injury survivor, family member, and health care professional who testified at the legislative committee meeting for the BI Trust Fund, she felt the committee's support for funding resource facilitation matches the intent of the legislation.

Deborah Neary wrote a note in the chat box stating she was just attending and thanked the committee for their work.

#### **UPDATES TO DHHS, UNMC, AND BRAIN INJURY OVERSIGHT COMMITTEE CONTRACTS**

Mike Hrcirik stated the DHHS and UNMC contract has been terminated and a new contract between UNMC and the BI Oversight Committee is being drafted with feedback from the AG office. The new contract being developed will outline the tasks UNMC will take on, such as convening the BI Oversight Committee meetings, directing funds as instructed to do so by the BI Oversight Committee, hosting the website, etc. UNMC did not want to share the DRAFT agreement yet as the contract is still being negotiated and it may set a precedent for committee members. Mike Hrcirik said UNMC will not be the one to decide how the funds are spent, that is up to the committee. Mike Hrcirik states he will direct any questions to the BI Oversight Committee executive committee if questions arise between meetings. Mike Hrcirik also shared the dedicated website page for the BI Oversight Committee <https://www.unmc.edu/outreach/bioc.html> and stated UNMC did transfer BI Trust Fund dollars to BIA-NE before the end of the fiscal year.

#### **ATTORNEY GENERAL'S LETTER DATED JUNE 10, 2021**

Judy Nicholson stated the AG office noted on page two of their June 10, 2021, letter to the committee, that (2)(a) provides that funds "shall be....used to pay for contracts for assistance for individuals with a brain injury with outside sources that specialize in the area of brain injury." And that the AG office said this precedes (2)(b) which talks about, "expenditures from the fund may also include but not be limited to". Judy Nicholson states she feels the committee needs to consider the trust funds be used to pay for more than just resource facilitation and that she felt the AG office thought the committee might be confused in their interpretation of the funds. Judy also questioned to whom the committee was accountable.

Shauna Dahlgren states she has been in contact with the AG office and the AG's office has told Shauna Dahlgren that it is up to the committee to decide where the funds are spent. It was mentioned that the committee is accountable to the public, the Governor's office, and the Legislature in how the funds are spent.

Judy Nicholson asked why the committee didn't have a formal process in place before appropriating funds to BIA-NE. Shauna Dahlgren stated that given we were a new committee and were trying to navigate the process prior to the end of the fiscal year, the committee voted based on prior committee discussions and information available to the committee at the time to approve the funding as the committee did in April 2021. Moving forward we will work to set up criteria for an application process and pair that with evaluation of the applications. Anna Cole asked Shauna Dahlgren for confirmation that the AG's office is not saying the committee did anything wrong by awarding the funds the committee did. Shauna Dahlgren confirmed her contact at the AG's office stated the committee could make the decision they did. Shauna confirmed moving forward the committee will want to create a written application and evaluation process for how the funds are to be appropriated.

#### **SENATOR MIKE MCDONNELL'S LETTER**

Shauna Dahlgren asked for any comments to Senator McDonnell's letter regarding the intent of the Brain Injury Trust Fund Act. Dr. Kody Moffatt stated the letter seems to reinforce the public comment statement from Tiffany Armstrong.

#### **DISCUSSION JUDY NICHELSON'S MAY 5, 2021, LETTER**

Shauna Dahlgren asked Judy Nicholson if she wanted to say anything at this time about her letter since she asked it to be on the agenda. Judy Nicholson stated she felt the letter speaks for itself and she did not need to explain anything more. Dr. Kody Moffatt asked Judy Nicholson if she wrote the letter herself and she stated these are her words she put in her letter. Dr. Kody Moffatt asked if she could explain what she meant by him going all over the state with Peggy at BIA. He also wondered what she meant in her letter when she says we need to hold ourselves to a higher level of fiduciary oversight and ethical standard. Judy Nicholson states that Dr. Kody Moffatt helps Peggy Reisher and BIA with presentations such as the Concussion Discussions he did with her in North Platte. Dr. Kody Moffatt explained he has done over 205 national, regional, statewide, and local presentations and only 4 of them were as a panelist alongside someone from BIA. Dr. Kody Moffatt states he has never spoken on behalf of BIA. Peggy Reisher clarified Dr. Matt Garlinghouse from UNMC co-presented with her in North Platte. Dr. Kody Moffatt did not. Dr. Kody Moffatt states he has worked with a variety of agencies, BIA is just one of them. Dr. Kody Moffatt also asked Judy Nicholson what she means by the committee not exercising fiduciary responsibility. Judy Nicholson stated she felt the committee should consider funding more than one agency as discussed previously in the AG's letter (2)(a) and (2)(b). Dr. Kody Moffatt reported he felt he and committee members have discussed the intent and reviewed which agencies do Resource Facilitation in Nebraska over the course of the last several months. He feels he has exercised fiduciary responsibility based on that. Judy Nicholson stated she was concerned that the committee was looking too "friendly" with BIA because of their history and rapport with BIA that makes it easy to allocate all the funds to BIA. Committee member Anna Cole stated she didn't know about BIA until she was brought onto this committee, so she did not have a working history with them. Shir Smith stated she has many professional relationships with non-profits and was insulted by Judy's comments in the letter implying she was too "friendly" with BIA. Joni Dulaney stated she was offended by the letter but wanted to address the fact that everyone had a vote on the committee. Shauna Dahlgren also talked about how she has many professional working relationships and BIA is just one of them and that she voted based

on the information shared during committee meetings vs. a relationship with BIA. Jeff Baker states he understands Judy is not happy with the last vote, but he would like to see us move forward and get on with the work of this committee. Joni Dulaney also disclosed she and her employer have a professional relationship with BIA but this is not why she voted to approve the funding go to BIA.

#### **SUBCOMMITTEE REPORT ON EVALUATION AND OUTCOME MEASURES**

Peggy Reisher reported the subcommittee met towards the end of June to review the workplan and timeline (starting on page 15) of the BIA-NE Resource Facilitation Plan. Committee members provided input and feedback on the plan BIA laid out. Peggy Reisher stated BIA has met with Schmeckle Research to map out how BIA can measure these outcomes. The committee discussed bringing an evaluation workgroup together at the end of Aug. to look at what Schmeckle Research recommends. Peggy Reisher will send out a doodle poll to committee members interested in seeing the evaluation tools and providing additional feedback.

#### **ALLOCATION/CRITERIA PROCESS FOR FUTURE FUNDS**

Shauna Dahlgren stated the AG's office suggested the committee create a more formal application and evaluation process before allocating the next set of funds. The committee discussed forming a workgroup to begin to create the application process and the evaluation criteria for applications received. Shauna Dahlgren states she will create a doodle poll and invite committee members to be a part of this workgroup which will meet in Sept.

#### **NEXT COMMITTEE MEETING**

Shauna Dahlgren provided an update on the new open meeting act that virtual meetings must be no more than 50% of the meetings. The AG's office also said if the meetings are held virtually then there must be an audio recording of the hybrid meeting. Mike Hrcirik said he would need to check with UNMC as to how and if meeting recording are posted and to whom they should be shared.

The committee discussed when they should meet again. Dr. Kody Moffatt suggested the end of October, after the workgroups have met. Shauna Dahlgren will work with UNMC to have a doodle poll created and sent to the group.

#### **ADJOURN**

Dr. Kody Moffatt made a motion and Peggy Reisher seconded the motion to adjourn the meeting at 3:03. Motion passed with unanimous consent.

Meeting minutes submitted by Peggy Reisher, Brain Injury Oversight Committee Secretary