



Administrative Office, 105 Hall Street, Suite A, Traverse City, MI 49684

## Committee of the Whole Meeting Minutes

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June 16, 2022

12:00 PM

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### 1. ATTENDANCE:

Northern Lakes Community Mental Health Authority, 527 Cobb Street, Cadillac and remote virtual meeting.

Rose Denny called the meeting to order at 12:00 p.m.

Board Members Present: Tony Lentych, Dan Dekorse, Penny Morris, Ben Townsend, Rose Denny, Barb Selesky, Pam Babcock, Sherry Powers, Ty Wessell, Al Cambridge, Lynn Pope, Greg McMorrow, Justin Reed, Mary Marois (corrected 07/21/2022 dsl)

Board Members Absent: Nicole Miller (advance notice) and ~~Mary Marois (advance notice)~~, Angela Griffis (advance notice)

Others Present: Cadillac – Joanie Blamer, Interim Chief Executive Officer; Lauri Fischer, Chief Financial Officer; Matt Leiter, Director of Human Resources; Tracy Andrews, Director of Integrated and Managed Health Services; Brian Newcomb, Director of Recipient Rights; Heather Sleight, Administrative Specialist; Deb Lavender, Executive Secretary; Stacy Maiville, Executive Secretary; Jeremiah Williams, Information Technology Supervisor; Dan Mauk, Chief Information Officer; Eric Kurtz, NMRE; Haider Kazim

Virtual –Ann Ketchum, Programmer Analyst II; Jessica Williams, Performance Improvement Specialist; Chris Biggar, Finance Manager; Kelly Hoag, Administrative Specialist; Kasie Morse, Customer Service Provider; Aaron Fader, Human Resources Specialist; Michelle Michalski, Human Resources Specialist; Treasa Cooper, Reimbursement Coordinator; Dean Baldwin, Network Administrator; Kari Barker, QI Compliance Director; Deb Freed, Public Relations; Lisa Jones, Recipient Rights Advisor; Aimee Horton Johnson, Office Administrator; Alyssa Hansen, Human Resources Supervisor; Kristin McLeod, Human Resources Representative; Kaitlyn Reinink, Nursing Supervisor – Psychiatric Services; Michelle Dosch Compliance Secretary – QI & Compliance; Darryl Washington, Northern Healthcare Management Team; Jan Pytlowany, Customer Service Provider; Jennifer Wisniewski, RN Psychiatric Services; Jessica Whetstone, Jail Diversion Clinical Specialist; Travis Merz, Business Intelligence Specialist; Tiffany Fewins, Administrative Assistant; Ian Pegan-Naylor, Recipient Rights Advisor; Melissa Trout, Child & Family Manager; Linda Jameson; Patti Burgess; James Galleng

### 2. PUBLIC COMMENT:

James Galleng with the Marquette County Suicide Prevention Coalition. Would like CEO to give a means and ends report concerning how she has assured that this board is complying with the Michigan Mental Health Code, specifically MCL 330.1712 Individualized Plan of Services. Contains 9 things including assessing needs of the consumer for legal services. He does not feel that this is happening with CMH's in Michigan. Children whose parents are divorced, always have a court ordered standard of care. When that is not being provided to them, that creates an increased risk in suicide. Also wants the board to consider appointing him to the new ad-hoc governance committee as he feels that our attorney who presented today was misguided on his

attempts at RRO. Feels that our board is confused and that the newly appointed chairs get to make up rules and run the board as they see fit.

### **3. CEO POSITION:**

Four open issues regarding the Employment Agreement:

- Paragraph 4 agreement offered at \$135,000. Joanie is at \$150,000
  - Motion passed to vote at Board meeting on starting salary of \$140,000
- Paragraph 5 - agreement doesn't offer a company vehicle. Joanie would like one
  - Motion passed to vote at Board meeting to offer Joanie a company vehicle.
- Paragraph 8a – agreement offers 6 months compensation for termination w/o cause. Joanie would like 12 months w/in 1 year, 9 months w/in 2 years and 6 months after 3 years.
  - Motion passed to vote in the Board meeting to change or keep this the same
- Section 16 – limitations prevent Executive from receiving any monetary damages if discriminated against based on gender, race, or other protected categories. Joanie doesn't agree that current legal, protective rights should be waived.
  - Motion passed to vote in the Board meeting to change or keep this the same

### **4. OVERVIEW OF DOCUMENTS:**

#### **REVIEW OF MH CODE & ADMINISTRATIVE RULES**

Joanie provided a review of the requirements in the Michigan Mental Health Code and Administrative Rule. The Michigan Mental Health Code is a Michigan law. The Department of Health and Human Services provides guidance on the law through the administrative rules.

- The board is responsible for/to:
  - Contract w/Chief Executive Officer
  - Contract w/Chief Medical Officer
  - Directly employ executive team members
- The purpose of the community mental health authority is to provide:
  - Crisis stabilization and response, 24/7
  - Identification, assessment and diagnosis to determine the specific needs and to develop an IPOS
  - Planning, linking, coordinating, follow-up and monitoring to assist the recipient in gaining access to services.
  - Specialized mental health recipient training, treatment, and support
  - Recipient Rights services
  - Mental Health advocacy
  - Prevention activities that serve to inform and educate with the intent of reducing the risk of severe recipient dysfunction.
- Powers and Duties of the board
  - Annually conduct a needs assessment to determine the mental health needs of the residents of the county/counties it represents and identify public or nonpublic services to meet those needs.
  - Annually review and submit to the department by the date specified, a needs assessment report, annual plan, and request for new funds for the CMHS program.
  - Provide and advertise a public hearing on the needs assessment, annual plan, and new request for funds before providing them to the county board of commissioners.
  - Submit to each board of commissioners, for their approval, an annual request for county funds to support the program.
  - Annually approve the community mental health services program's operating budget for the year.
  - Take the actions it considers necessary and appropriate to secure private, federal and other public funds to help support the CMHS program.
  - Maintain copies of the original resolution of the county board of

- commissioners and revisions, which establishes authority.
- Approve and authorize all contracts for the provision of services. Review and evaluate the quality, effectiveness and efficiency of services being provided by the CMHS program.
- The board shall:
  - Operate under personnel practices that do not discriminate against an employee or an applicant for employment.
  - Appoint an executive director of the CMHS program
  - Establish general policy guidelines w/in which the executive director shall execute the CMHS program.
  - Require the executive director to select a physician to advise the executive director on treatment issues.

## **CONTRACT REQUIREMENTS – Eric Kurtz, NMRE CEO provided a review of various contracts and their requirements**

- Law, contracts and policy of significance:
  - Mental Health Code
  - Established in 1974
  - Established the Department of Health
  - Service provisions are for all consumers. Services should be targeted and directed to the most in need.
- General funds contract
  - Intended to codify the Mental Health Code responsibilities
  - A mix and match of Medicaid covered supports and services
- PIHP Contract with the state
  - A compilation of state and federal law and compliance regulations as they relate to the state waiver applications and it's Medicaid program for Behavioral Health and Substance Use Disorder Services.
- Medicaid Provider Manual,
- PIHP contract with the CMHSP's.
  - Network Adequacy and Availability of services
  - Timeliness of service access
  - Timely payments and claims processing
  - Utilization management
  - Customer services
  - Management of information systems
  - Grievance and appeals
- These are the state and federal requirements that we are bound to.

**Question:** any talks of Telehealth and the budget? **Response:** not so much on the budget side but on the Medicaid policy side of things, yes. We all want Telehealth to continue in some form or fashion. Feels that it will be scaled back a little bit. Not sure if we will be able to keep it as a billable service. Telehealth pre-Covid is different than post-Covid. Hoping these rules get loosened up. **Question:** Our ends policies are very open ended and not really measurable at all. Any recommendations? **Response:** The Carver is far more hands off. The board looks at the outcomes. Having been on both sides of the fence, I want the board to know what I know. A committee board model can get a little overwhelming and can bring the board into areas that really should be managed by the Executive Director. The hands-off type tends to have troubles. **Question:** As the NLCMH, we are substantially underspending our Medicaid capitation. Why is that happening and what can be done? **Response:** Covid has caused people to stay on continuous Medicaid (no redeterminations) as well as did away with spend downs and boosted Direct Care Wages without really knowing the best way to push out the money or how much to push out. They are frankly paying us more than we will use based on these factors. The factors will be going away soon though. Money that is not spent has to be given back. It is not that we don't have ways to spend it, but there are stipulations on how the money can be spent. **Question:** Can you see the simplicity in a hands-off model from the standpoint of a finance committee? **Response:** It is up to the individual board as to whether or not they need a finance

committee. In the full policy governance, it's the ends and means – that's it. You can modify the ends, you can modify the Carver model. At the end of the day, I think most lean toward the Carver model. Discussion of the modification of the ends and the NMRE.

## **BOARD BY-LAWS Update and suggested changes was provided by Dan DeKorse**

The written rules that control the internal affairs of an organization. They govern the way the group must function as well as the roles and responsibilities of its officers. Sometimes mistakenly called Standard Operating Procedures (SOP's). Help an organization handle new situations or issues that may arise. They help keep things running smoothly.

- NLCMHA has 12 articles:
  - Name and Authority
  - Purpose and Function
  - Board Membership
  - Terms of Office, Vacancies and Removal
  - Officers and Duties
  - Committees
  - Meetings
  - Conduct of Meetings
  - Powers to Contract
  - Powers to hold assets
  - Conflict of Interest
  - By-Laws

**Question:** Have our bank accounts been approved by the board? **Response:** I do not remember the board approving the bank accounts. When we merged with an RFP, 2 of the banks within our area met the policy that the board has. A branch in each of the locations that makes deposits and a couple of other rules within there.

Dan proposed a motion to assemble a committee to review by-laws and look at how they pair up to our policies.

Tony recommended that we get article 12, section 2 in front of counsel for clarification. This is currently being worked on but person doing so is home with Covid.

Discussion regarding the separation by Grand Traverse County. We need to be proactive rather than reactive. Focus on the problem, the root cause and how to fix it. Six counties meeting later this month. 4 Southeast counties are meeting weekly to create a plan B. It is possible to have someone come and explain the separation process to us in greater detail.

## **Review of the OPEN MEETINGS ACT was provided by our General Counsel, Haider Kazim.**

- Board Governance Policies
  - Section 3.5 states that meetings of the board are to be conducted in accordance with Robert's Rules of Order.
  - For the months of November through March, board meetings can be conducted using interactive video conferencing.
- NLCMHA By-Laws
  - Article 8, Sec 1 states that RRO govern board meetings unless the by-laws conflict with the rules, in which case, the by-laws control so long as they do not conflict with the constitution and state laws.
  - RRO can be temporarily suspended by a 2/3 vote of those present at any regular board meeting.
- Open Meetings Act
  - MCL 15.263(1) requires that all meetings of a public body must be open to the public and must be held in a place available to the open public.
  - AG opinion No.7318 (dated 2/4/22) states that phrase "in a place available to the public" means meetings of a public body must be held in a

physical space and therefore the OMA does not contemplate wholly virtual meetings. However, the AG also gave opinion as to whether, in the absence of any accommodation in the OMA to allow a disabled individual to attend a meeting virtually or via remote access, such accommodations are required by the ADA and Rehabilitation Act. The opinion concluded that since the OMA is inconsistent with what is required under the ADA, then the OMA is preempted.

- The OMA was amended 12/20 due to Covid to allow public bodies to meet virtually and exempt compliance with the in-person meeting requirements of MCL 15.263.
- The ADA was enacted to provide federal protection for the disabled and to prevent discrimination against individuals on the basis of their disability.
- Under title 2 of the ADA, it states that no qualified individual with a disability shall be excluded from participation or be denied benefits of the services, programs or activities of a public entity, or be subjected to discrimination by any such entity.
- When seeking accommodation under the ADA, board member must show that they have a disability and that they are a qualified individual with a disability. And the board must consider whether it can modify its meetings w/o incurring an undue burden or altering the nature of the meetings.
- Under the ADA, the relevant definition of disability is "a physical or mental impairment that substantially limits one or more of the major life activities of the individual. For disability to qualify under ADA, it requires an individual assessment of whether the impairment substantially limits a major life activity.
- Because the Board was able to meet virtually during the Covid-19 pandemic and has been conducting, in whole or in part, virtual meetings since 2020, it does not appear likely that a request for a hybrid in-person meeting/remote access would place an undue financial or administrative burden upon NLCMHA or constitute a fundamental alteration of the Board's meetings.
- However, a FULLY virtual meeting is not required since it is not necessary to accommodate a qualified individual with a disability and thus is not required by the ADA and hence, not allowed by the OMA.
- Therefore, pursuant to the AG's opinion No 7318, under the ADA and the Rehabilitation Act, the Board must provide reasonable accommodations to a Board member who is qualified with a disability, and who requests an accommodation in order to fully participate in Board meetings allowing the member to participate virtually.

### **Robert's Rules of Order**

- RRO are rules of parliamentary procedure and are not specific to public bodies.
- To the extent that there is a conflict between RRO and the OMA or any other state or federal laws, the Rules are preempted.
- To the extent that there is a conflict between the Rules and NLCMHA by-laws, the by-laws control.
- The Rules permit a board or committee to meet by video/teleconference if authorized by the board or committee's by-laws. Under the Rules. A meeting held via video or telephone conference must allow all persons participating to see and hear each other at the same time.

### **Agenda amendments**

- The agenda may be amended by a vote of the majority of Board members present at a meeting prior to its adoption.
- If a motion to amend the agenda is made after it has been adopted, then a 2/3 vote of members present is required.

## **GOVERNANCE -**

- Put off until next month

## **5. AGENDA PLANNING OPTIONS:**

July 21, 2022 meeting we have on our agenda

## **6. MEETING EVALUATION/COMMENTS:**

#1 – We spent our time on the most important governance topics – excellent

#2 – We encouraged diversity of viewpoints – excellent

#3 – Our decisions were made collectively – excellent

#4 – The Board used it's time effectively – excellent

#5 – What is the most important thing the Board could do to improve our function as a Board?

Comment – None.

## **7. OTHER/ADJOURN:**

Meeting adjourned at 3:37 p.m.

Respectfully Submitted,

Heather Sleight

Administrative Specialist