



## Board of Emergency Medical Services Meeting Agenda

**Date: February 9, 2024**

**Time:**

8:30 a.m. – 10:30 a.m.  
Committee Meetings

10:30 a.m. - Open Session  
10:40 a.m. - Closed Session  
11:20 a.m. - Open Session

**Location:**

Nebraska State Office Building  
Meadowlark Room – Lower Level  
301 Centennial Mall South  
Lincoln, NE 68509

**For Information Contact:**

Tonja Bohling (402) 471-8129 or  
Tonja.Bohling@nebraska.gov

*The Board will be working through the lunch break.*

All items known at the time of distribution of this agenda are listed. A current agenda is available at the Department of Health and Human Services, Division of Public Health Office of Emergency Health Systems. If auxiliary aids or reasonable accommodations are needed for attendance at a meeting, please call Tonja Bohling at (402) 471-8129 (voice), or for persons who are deaf or hard of hearing, please call the Nebraska Relay System at 711 (TDD), prior to the meeting date. Advance notice of seven days is needed when requesting an interpreter.

**2024 Board Meeting Dates:**

Monday, May 13, 2024  
Friday, July 12, 2024  
Monday, September 9, 2024  
Friday, December 6, 2024

*NOTE: Dates are subject to change*

- 1) Call to Order, Roll Call, and Declaration of a Quorum  
**Announcement: "This is a public meeting, and the open meetings law is posted."**
- 2) Adoption of Agenda
- 3) Approval of December 8, 2023, Minutes
- 4) Closed Session (approximately 10:40 a.m.)  
**Announcement: The board will go into closed session for the review and discussion of investigative reports, licensure applications and other confidential information and for the protection of the reputation of individuals.**
  - a) Investigation Reports
  - b) Applications
  - c) Other Confidential Information
- Open session will start approximately 11:20 a.m.**
- 5) Board Recommendations from closed session
- 6) Office of Emergency Health Systems
  - a) Licensing (Wilson)
  - b) EMS Program (Jorgensen)
  - c) Education & Training Agency Compliance (Snodgrass)
  - d) Emergency Medical Services for Children (Kuhn)
  - e) Critical Incident Stress Management (Kuhn)
  - f) Trauma System (Bailey/Wren)
  - g) Stroke/STEMI System (Neumiller/Wilson)
  - h) EHS Data Systems (Steele/Wilson)
    - i) RFP for EHS Data Systems
  - i) Statewide Physician Medical Director Update (Ernest)
- 7) EMS Committee Reports
  - a) Legislation and Rules and Regulations (Smith)
    - i) Meeting with Governor
    - ii) LB1108 – Increase Fifty Cents for Life to Dollar for Life
      - (1) State Trauma Board Meeting
    - iii) LB 876 – Safe Haven
    - iv) LB 910 – Canine Care
  - b) Scope of Practice (Fiala)
    - i) Model Protocol Revision (Fiala/Ernest)
    - ii) Proposed changes/additions/deletions (Fiala)
    - iii) Keamine (Smith)
  - c) EMS Education (Bowlin/Hovey)
  - d) EMS Workforce(Cerny)
- 8) Review South Dakota Ambulance Study (Smith)
- 9) Meeting Dates May 13, 2024 change (Smith)
- 10) NSVFA Update (Cerny)
- 11) NEMSA/NIS (Bowlin)
- 12) Training Agency Directors (Fuehring)
- 13) Public Comment
- 14) Adjourn

**EMS Board agenda packet for public use:**

<https://dhhs.ne.gov/OEHS%20EMS%20Board%20Documents/EMS-Board-Agenda.pdf>

**JOIN MEETING LINK:**

<https://sonvideo.webex.com/sonvideo/j.php?MTID=mf56679536aff61b7d5f788bb6e510600>

Meeting number: 2488 810 5750 Password: ZWsDmX74MV6  
Join by phone: 1-408-418-9388 United States Toll  
Access code: 248 881 05750

**NOTE:** If you join the meeting and get a message stating, “**Meeting is Locked**” or “**Meeting has not Started**”, this means that the Board is still in closed session, please try joining in a few minutes.

**MINUTES OF THE MEETING**  
**of the NEBRASKA**  
**BOARD OF Emergency**  
**Medical Services**  
**Friday, December 8, 2023**

**CALL TO ORDER**

The meeting of the Nebraska Board of Emergency Medical Services was called to order by Dr. James Smith, Board Chairperson, at 10:32am, Friday, December 8, 2023, at the Nebraska State Office Building (NSOB), Lincoln NE 68508. Copies of the agenda were emailed in advance to the Board members, emailed to interested parties, and posted on the Department of Health and Human Services website on Friday, December 1, 2023. Smith announced the location of an available copy of the Open Meetings Act within the room.

**ROLL CALL**

The following board members were present to answer roll call:

- Michael Bailey
- Ryan Batenhorst
- Dr. Noah Bernhardson
- Randy Boldt
- Karen Bowlin
- Joel Cerny
- Ann Fiala
- Dr. Prince Harrison
- Todd Hovey
- Linda Jensen
- Jonathan Kilstrom
- Dion Neumiller
- Carolyn Petersen-Moore
- Michael Sheridan
- Dr. James Smith

The following Board members were absent:

- Brent Lottman
- Leslie Vaughn

The following staff members from the Department and the Attorney General's Office were also present during all or part of the meeting:

- Tonja Bohling
- Christy Duryea
- Abigail Hoy Nissen, *Assistant Attorney General*
- Carol Jorgensen
- Trevor Klaassen, *Investigations*
- Juliann Lanphier-Wilson, *DHHS Attorney*
- Wendy Snodgrass
- Sharon Steele
- Tim Wilson

A quorum was present, and the meeting convened.

**ADOPTION OF THE AGENDA**

**MOTION:** Cerny made the motion, seconded by Bernhardson, to adopt the agenda for the December 8, 2023, Board of Emergency Medical Services meeting.

Voting Yes: Bailey, Batenhorst, Bernhardson, Boldt, Bowlin, Cerny, Fiala, Harrison, Hovey, Jensen, Kilstrom, Neumiller, Petersen, Sheridan, and Smith. Voting No: None. Abstain: None. Absent: Lottman and Vaughn. Motion carried.

These minutes have not been approved by  
the Board of EMS.

**APPROVAL OF THE MINUTES**

Jensen made the following corrections to the minutes: September 11, 2023, page 3, second paragraph, line 7, spelling of “maniquines” change to “mannequins”; page 9, third paragraph, line 3 spellings of “Shayla” and “Compost” should be changed to “Shaila” and “Campos” respectively, same line add “Abe” between “Dr.” and “Campos”, and paragraph 5, line 1, again “Shayla” changed to “Shaila”; page 10, line 1, “passion” changed to “passionate”.

**MOTION:** Sheridan made the motion, seconded by Bailey, to approve with corrections to minutes of the September 11, 2023 and October 12, 2023 meeting with no corrections.

Voting Yes: Bailey, Batenhorst, Bernhardson, Boldt, Bowlin, Cerny, Fiala, Harrison, Hovey, Jensen, Kilstrom, Neumiller, Petersen, and Smith. Voting No: Sheridan. Abstain: None. Absent: Lottman and Vaughn. Motion carried.

Smith reminded everyone to speak up so those on Zoom can hear and then welcomed Juliann Lanphier-Wilson, DHHS Attorney, and Abigail Hoy Nissen, Attorney with the Attorney General’s Office sitting in for Mindy Lester.

**CLOSED SESSION**

**MOTION:** Bailey made the motion, seconded by Bowlin, for the Board to go into closed session for the purpose of reviewing and discussing investigative reports, licensure applications, and other confidential information, and for the prevention of needless injury to the reputation of the individuals.

Voting Yes: Bailey, Batenhorst, Bernhardson, Boldt, Bowlin, Cerny, Fiala, Harrison, Hovey, Jensen, Kilstrom, Neumiller, Petersen, Sheridan, and Smith. Voting No: None. Abstain: None. Absent: Lottman and Vaughn. Motion carried.

10:41            *Meeting went into closed session.*  
11:30            *Meeting returned to Open Session.*

**OPEN SESSION**

**MOTION:** Fiala made the motion, seconded by Bailey, for the Board to go into open session.

Voting Yes: Bailey, Batenhorst, Bernhardson, Boldt, Bowlin, Cerny, Fiala, Harrison, Hovey, Jensen, Kilstrom, Neumiller, Petersen, Sheridan, and Smith. Voting No: None. Abstain: None. Absent: Lottman and Vaughn. Motion carried.

**LICENSURE RECOMMENDATIONS****NINA CUNNINGHAM – EMT INITIAL APPLICATION**

**MOTION:** Bailey made the motion, seconded by Jensen, to issue initial EMT license to Nina Cunningham with no probation period.

Voting Yes: Bailey, Batenhorst, Bernhardson, Boldt, Bowlin, Cerny, Fiala, Harrison, Hovey, Jensen, Kilstrom, Neumiller, Petersen, Sheridan, and Smith. Voting No: None. Abstain: None. Absent: Lottman and Vaughn. Motion carried.

**AGENDA ITEM: CONCUSSION PRESENTATION**

Dr. Katie Higgins gave a presentation on concussions (see attachments on Concussion Awareness and Recognition). She recognized the work of Dr. Todd Caze, Sport Neuropsychologist at the Caze Concussion Institute in Omaha. She and Dr. Caze went out to central Nebraska in September, 2023 and

presented on concussions to a group of EMTs and would like to present to the Board what they discussed there. She discussed concussions as a relatively common injury, depending on context. As sports participation changes, we see increased rates and awareness of concussions increasing in other areas outside of sports. Concussions can be life-changing for patients if care is delayed or they are not given correct intervention. However, there can be good outcomes if they are given immediate care with the right interventions.

She also addressed the idea emergency medical providers are uniquely positioned to recognize potential concussions and start the application process with the patient as well as any downstream providers. She presented the Vestibular and Ocular Motor Screening tool, the Psychometrics of it and how it can be used. Bailey commented there is a lot of data out there supporting how concussions are evaluated and on the need for EMS to be trained and given tools on concussions. Dr. Smith asked for resources and additional recommendations for EMS agencies. Higgins replied there are numerous research articles and multiple YouTube videos on this that can be accessed. Higgins and Caze are passionate about this topic and can be resources as well. She left both their contact information with Board members.

### **AGENDA ITEM: OFFICE OF EMERGENCY HEALTH SYSTEMS**

Program reports were submitted (See attachment) for Board review prior to the meeting and were in the portal.

- a. Licensing: Wilson gave an update on licensing. The average time is 23 days to issue a license (outside a service license). The most common delay is the background check – which can take 4 to 8 weeks for results to be returned. Applicants need to submit their application for licensure and fingerprints close to the same time because the Nebraska State Patrol will not process the application for fingerprints unless the Department has the application for licensure on file. Applicants also need to make sure they have all their supporting documents submitted (the National Registry card with the expiration date, proof of citizenship, disclosure of any convictions, etc.). The Department will host informational sessions to begin in January to go over regulatory changes that took effect this year. The EMT renewal date was moved to March 31, 2024, so EMTs do not have to renew by December 31, 2023. Reminders for the renewal dates will be sent out in January, 2024.
- b. EMS Program: Carol reported. Brad Harm, the Northeast Region EMS Specialist, has resigned. His last day is Friday, December 15, 2023. She thanked Brad for his 5 plus years serving the Northeast Region and the State of Nebraska. He will be missed. Approval is being worked on to get the job posted. In addition to the report, the Statewide Assessment virtual listening sessions have been scheduled for December 14, 2023 at 11:00am and 7:00pm Central Time. Let Carol know if you did not get the information on these listening sessions and she will get it sent to you. EMS telehealth (a one-year private project funded through a Health Disparities CDC grant) will have the first installation of telehealth equipment in the back of ambulances in the state of Nebraska starting next week on Monday. Currently 21 licensed services have either committed or are considering participating. It has not been publicly announced which services will be involved. Wilson is working with the State communications team to announce in the next couple of weeks. The goal is to eventually secure permanent funding for all services who want to participate. The Physician Medical Directors (PMD) for each of the participating agencies are being notified to determine if they choose to participate. This will not replace the PMD in that he/she will still have autonomy over the service. If the telehealth orders are not in the protocols or the scope of that service, then that service does not have to carry out what the telehealth physician orders. Smith asked from a liability standpoint afforded to PMDs using unamended State EMS protocols, does that extend to these overseeing providers as long as they don't change or go outside the scope or protocol. Wilson will have a conversation with Department legal and get back to Smith on this issue. Smith brought up the issue of establishing a patient/doctor relationship. It was noted an additional release of permission will be required in order for the patient to come into the ambulance for telehealth. Jensen asked if the listening sessions will be in-person or virtual. Jorgensen said these upcoming sessions are virtual.

- c. Education and Training Agency Compliance: Wendy reported the Department is always looking for topics and instructors for the online Zoom continuing education classes. She will be reaching out to Dr. Higgins to present her concussion information by Zoom.
- d. Emergency Medical Services for Children (EMSC) Program: Debbie Kuhn reported virtually she is pushing/working on getting out the Carter Kits. Two hospitals have applications in to become Pediatric Ready; one is UNMC. Marjorie VanRiper, who is on the advisory committee representing Emergency Nurses Association (ENA), is retiring at the end of the month.
- e. Critical Incident Stress Management (CISM) Program: Debbie Kuhn reported numbers went down from last year. She is still working with UNMC and John Pain on redoing the nursing curriculum to add in CISM. She is getting ready to plan the 2024 training and scheduling the 2024 calendar. Tim added CISM has been swamped and very busy lately and has done a phenomenal job ensuring all first responders are properly trained. The State Patrol number to activate a CISM call is (402) 479-4921. New coasters with the same phone number on them will be coming out soon and be sent to all ambulance services, hospitals, and law enforcement agencies. Eight hospitals are Pediatric Ready. Debbie takes the applications, but nurses on the advisory board and Dr. Harrison review the applications and give recommendations. There is a 4-year designation on ped-ready hospitals. On February 1, 2024, Region 6 is doing a presentation on Counseling on Access to Legal Means Training for outside mental health providers as well as team members.
- f. Trauma Program: Wilson reported, in addition to the submitted report, the program is pushing to get grant-funded trauma education specialty training (Pediatric Care After Resuscitation/Trauma Care After Resuscitation PCAR/TCAR) out to facilities. There is a board vacancy for EMS in Urban Area. Bailey is working on Fifty Cents for Life to figure out ways to increase this fund and collaborate between EMS and Trauma.
- g. Stroke/STEMI Program: Becka Neumiller virtually reported in addition to the written report, Stroke Task Force Committees (Clinical, Rehab, and EMS) have been created. The EMS Committee is low on members and needs dedicated people to join. Contact Neumiller if you are interested and she will get you in touch with Andrew Snodgrass, the EMS Committee President.
- h. EHS Data Systems: Wilson reported a Request For Proposal (RFP) is officially out for the EMS Patient Care Reporting System (ePCR) as well as the Statewide Trauma Registry System. This RFP is open and vendors have been notified it closes toward the end of this month with evaluations coming in January. Stakeholders are needed across the state to look at functionality and give the State input on vendors when they do oral presentations. The RFP closes in January, 2024. Wilson addressed the question of what is done when the system needs changed and how difficult is it to make the change. In looking at new vendors, one of the requirements is to be able to import records from the old system into the new system.
- i. Statewide Physician Medical Director Update: Dr. Ernest virtually reported, pending the final implementation of the changes, his review of the State protocols is complete and they are ready to roll out. He has been working with Wilson in looking at a mobile application with protocols, hyperlinks, and a good user interface. Smith gave kudos to the Scope of Practice Committee and Dr. Ernest for all their work.

The Board took a short break at 12:15 pm. Resumed at 12:30. Working through lunch.

#### **AGENDA ITEM: EMS COMMITTEE REPORTS**

- a) Legislative/Rules and Regulation Committee Update
 

Meeting with the Governor – Dr. Smith and Tim Wilson had the opportunity to meet with the Governor regarding EMR transport, National Registry, training hours, and volunteerism. Smith has a followup meeting with Jerry Stillmock, the lobbyist for the Volunteer Firefighters Association today. At the last meeting, members of the Legislative Subcommittee were authorized to reach out to any and all stakeholders: Senators, other organizations, Governor’s Office, county officials, etc. to move EMS forward. The Legislative Committee met this morning and discussed providers and endusers. Discussion occurred around developing a Task Force (a well rounded group of



stakeholders interested in EMS) to try to address these challenges. Members of the Board were encouraged to volunteer for this Task Force.

- b) Scope of Practice Committee Update given by Ann Fiala
- i. Model Protocol revisions – These have been submitted by Dr. Ernest. These will be available to the Board at the February meeting.
  - ii. Proposed changes/additions/deletions – EMR did not get added at this time.
  - iii. Law Enforcement K9 Transport – The topic of care and transport when Law Enforcement Canines are injured in the line of duty was discussed in the Committee meeting this morning. Darell Cross from Senator Reipe's office was present to answer any questions. Topics discussed during this committee meeting were training and protocols regarding animal care and transport (ie. concerns with how to transport a K-9 when the handler has been injured and unable to transport with the animal), the legality of the transport, scope of practice, and treatment and assessment. The Veterinary Board will need to be contacted to weigh in on this and may have questions as well. There is overwhelming support in the Scope of Practice Committee in caring for Law Enforcement K9s. The concern is also there for the EMS providers who may need to work with the animal without the help of the primary handler. Help is needed from the Veterinary Board and other stakeholders to operationalize this. DHHS Legal, Juliann Lanphier-Willson suggested working with the veterinarians to establish some protocols and adjusting the EMS education accordingly. Dr. Smith addressed the bill and emphasized making sure the bill encompasses being able to treat for those animals. Dr. Bernhardson is medical director for the federal agency Urban Search and Rescue (USR) and he spoke to this. USR, when deployed by the governor, acts as a state urban search and rescue. If the K9s were used in this capacity, it would fall under the federal guidelines and not be an issue. Cross weighed in stating this issue was brought forward by a Mr. Richardson, a K9 handler in Nebraska, who realized very quickly after a K9/EMS class that this issue existed in the scope of practice law. The bill draft was designed to be as simple as possible and to defer to this Board to oversee this and bring this to DHHS. Since DHHS oversees most EMS and Veterinarians, it is in the best capacity to negotiate scope of practice issues. He offered to review and make any needed changes to the bill to accommodate the scope of practice.

**MOTION:** Fiala made the motion, seconded by Bailey to move forward in researching the Board's part and working with legal and the Senators Office with the constraints of DHHS. Discussion followed. It was noted this bill only addresses dogs in law enforcement service. It was also noted this bill only has statutory authority over licensed EMS providers.

Voting Yes: Bailey, Batenhorst, Bernhardson, Boldt, Bowlin, Cerny, Fiala, Harrison, Hovey, Jensen, Kilstrom, Neumiller, Petersen, Sheridan, and Smith.

Voting No: None. Abstain: None. Absent: Lottman and Vaughn. Motion carried.

- iv. Discharge procedure in the hospital emergency department (ED) setting by paramedics was addressed by the Committee. The conclusion was it is within scope for paramedics since it is majorly done in the EDs and not on general hospitalization discharge. This should be supervised by the individual facility.
- v. Topics tabled to the February, 2024 meeting pending further research and discussion include RAMP (Rapid Assessment Mentation & Pulse) Triage and the POLST Form.
- vi. The Scope of Practice Committee reviewed an advisory position document by the Nursing Board on their stance regarding IV/infusion therapy stating nurses cannot compound medications through IVs. Reference to this document is made on the Department's Nursing webpage.
- vii. Another item brought before the Scope of Practice Committee was the Lifevac antichoking device. The Committee concluded it is not supported with a sound amount of research yet, so this topic will be tabled indefinitely until further research can be validated.

- viii. Dr. Harrison and Dr. Smith addressed the Ketamine dosing for pediatrics patients. There are inconsistencies in some items on the formulary that need clarification (reference page 164 of the formulary of the current State EMS protocols under Ketamine specifically). Under the Pediatric Column it reads, “age 6 months and older: 2-4mg per Kg for sedation and induction.” To the right of that is the route of administration which says, “IV/IO/IM”. For clarification the protocol formulary should read, “ age 6 months and older: 1-2 mg/kg IV or IO for sedation and induction” and should also read, “up to 4mg/kg IM for sedation”. The second addendum was also addressed at this time. This was for clarification. For Propofol, on the same page it reads under the pediatric, “1-2mg per kg IV/IO for induction”. Then to the right of that it has a double astricks and says, “Approved for RSI and not for pain management and sedation”. The Committee recommends amending the statement with a double astricks to:

- a) move the double astricks over into the box with the “1mg-2mg/kg IV/IO”(so we know what to look for)
- b) say, “approved for RSI and for sedation.”
- c) remove the verbiage on pain management.

Thanks went to Jensen and Snodgrass for their help with the changes.

**MOTION:** Fiala made the motion, seconded by Bailey to make the changes presented by Dr. Smith to the Ketamine and Propofol protocols. Discussion followed.

Voting Yes: Bailey, Batenhorst, Bernhardson, Boldt, Bowlin, Cerny, Fiala, Harrison, Hovey, Jensen, Kilstrom, Neumiller, Petersen, Sheridan, and Smith.  
Voting No: None. Abstain: None. Absent: Lottman and Vaughn. Motion carried.

- ix. The Scope of Practice Committee was given a letter from Saving Rural EMS requesting them to review the following twelve suggestions to add to the EMR scope of practice (See attachment “EMR Scope of Practice Suggestions”). The Committee reviewed them at length at several meetings and has the following recommendations:
1. Assessment skills (#4 on the list) is already included in their scope of practice.
  2. Automatic bloodpressure cuffs (#5 on the list) was decided as appropriate, with appropriate training.
  3. Use of LUCAS device (#6 on the list) was decided as appropriate with appropriate training.
  4. Application of heat/cold packs (#7 on the list) is already included in EMR scope of practice.
  5. Pulse Oximeter device (#12 on the list) was decided as appropriate with appropriate training.

Out of the twelve suggestions, the Committee would like to propose moving forward with three of those being yes, with appropriate training.

**MOTION:** Fiala made the motion, seconded by Jensen to add, with appropriate training, three of these suggestions (#5, #6, and #12) to the EMR Scope of Practice. A reminder was made two of the suggestions (#4 and #7) are already included in the EMR scope of practice. Discussion followed. DHHS Attorney, Lanphier-Willson, weighed in on the proposal stating, “We are limited by what’s defined in Statute and regulation and that is the lense we would view any of these proposals through.”



Voting Yes: Bailey, Batenhorst, Bernhardson, Boldt, Bowlin, Cerny, Fiala, Harrison, Hovey, Jensen, Kilstrom, Neumiller, Petersen, Sheridan, and Smith.  
 Voting No: None. Abstain: None. Absent: Lottman and Vaughn. Motion carried.

The suggestions decided as “no” by the Scope of Practice Committee were addressed. The Committee is requesting from the group that presented these to have the suggestions vetted through The Scope of Practice Emergency Care Provider Decision Making Framework.

Items to be vetted by this process are as follows:

1. Administration of Albuterol via Inhaler or Nebulizer
2. Administration of Glucocone by Nasal Inhaler or Autoinjector
3. Oral Glucose Gel Administration
4. Monitoring an Established Urinary Catheter
5. Trachial Suctioning
6. Utilize a Glucose Monitoring Device
7. Assisting with a Complicated Childbirth

John and Marlene Bomar commented their appreciation of the Committee’s work on this. At the last Saving Rural EMS meeting. Zoom was added as an option, so if anyone would like to be on the list, all they need is your email. Discussion was held. Bowlin brought forward to the Scope of Practice Committee the topic of baby aspirin for EMRs. This will be added to the agenda for the next meeting.

- c) EMS Education – Hovey reported they are in a holding pattern for a couple of activities. There are a couple of other entities that are working on EMS instructor courses. The Committee is waiting on these to see what they are working on before making recommendations. They were also waiting on the EMR Scope changes before moving forward with educational recommendations. Bowlin commented on the map of classes (see attached). The data shows there are areas where classes are not being held. However, there are some training agencies that are not putting information into the database. A report will be given on this later under the EMS Training Agencies agenda item.
- d) EMS Workforce – Cerny reported on the results of the surveys, and listening sessions, leadership and recruitment and retention. He encouraged everyone to spread the word on OEHS Leadership Training. He also encouraged everyone to read Wilson’s email with an article with 5 or 6 topics on EMS workforce. Bowlin challenged other Board members to take the EMS Leadership Training.

Smith asked Board members about how they felt about having Committees meet before each Board meeting. No opposition was voiced, so Committees will continue to meet at the designated times before each EMS Board meeting. He thanked all members for their participation on these committees.

#### **AGENDA ITEM: NEBRASKA STATE VOLUNTEER FIRE ASSOCIATION (NSVFA)**

Cerny reported they are still working with the Safer Grant 4. They sent four firefighter/EMTs to training in Florida at the Volunteer & Combination Officers Section’s Symposium in the Sun (VCOSSS) seminar. They will work on putting together presentations on what they learned there and use these to teach other firefighters. They will have all their expenses paid through the grant. The five firefighter/EMTs sent to the National Volunteer Fire Council’s Training Summit in Oklahoma City in June got their presentations are complete. If you know a department that would like someone to come present, please contact the NSVFA office. The NSVFA’s Annual Meeting was held October 19-21, 2023 in South Sioux City where they voted in new executive members. Thursday’s Leadership Seminar was conducted by Doug Cline. Tim Wilson spoke during the EMS House of Delegates on Friday and was available throughout the conference to answer questions. The next Leadership Training from the Safer Grant is at the Nebraska Fire Chief’s

Association at the Norfolk Lodge and Suites in Norfolk on March 16, 2024. Tiger Schmittendorf will be the speaker. He is one of the premier speakers on recruitment and retention. NSVFA is also working with Bill Kelly of Nebraska Public Media to produce a program called "Working Fires" about volunteer firefighters and EMS departments in Nebraska. Those who haven't seen it were encouraged to Google it and watch the program. Last weekend, the NSVFA Fire School and the Executive Board had their meeting to discuss the 32 classes that will be held at the Fire School in May on the State Fair Grounds. Hopefully Snodgrass will be there to help teach at the New Fire Chief Class again this year. There will be a Recruitment and Retention class and there will be three sets of twelve-hour segmented EMS classes, one set which will be geared toward Paramedic-Based Training. The Executive Board voted not to support EMR Transporting, to support LB415 (which includes helping funding for DHHS), and to work to help set up a task force focusing on EMS issues. A question was raised about future Firefighter 2 Instructor Courses. These are set up through the Fire Marshal's Office and can be found on the State Fire Marshal Training Site. The new State fire Marshal is Scott Cordes.

#### **AGENDA ITEM: NEBRASKA EMERGENCY MEDICAL SERVICES ASSOCIATION (NEMSA)**

Sandy Lewis reported a Mini Conference will be held on January 20, 2024, in Broken Bow with a new pilot Medical Directors Education class (free of charge and offered to in-person attendees only) taught by Dr. Shaila Coffey and Dr. Abraham Compos. The NEMSA Conference is March 8-10, 2024 in Kearney and will also have a Medial Directors Education Class taught by Dr.Coffey and Dr. Compos. The NEMSA Statement was read. The stance of the NEMSA Board was presented regarding two concerns: the EMR scope should not be changed and the NR-EMT certification should not have requirements reduced. Robin Darnall, the Vice-Chair of the Nebraska Instructor Society, read a statement from the Nebraska Instructor Society Executive Committee. She also presented the following stance of the Nebraska Instructor Society: EMR scope should not be changed and NR-EMT should not reduce the requirements for certification. In the near future, these two entities will present to the EMS Board what it can do to help the Nebraska Instructor Society.

#### **AGENDA ITEM: EMS Training Agencies**

Cherry Fuehring, Chair Person for the Nebraska EMS Training Agency Association and Robin Darnall presented training agency course data. The data is from 2021 through October of 2023. They addressed where students travel from for initial courses (See attachment). Only five states surpassed Nebraska on the National Registry cognitive exam. We support the National Registry being required as do 46 out 50 states for licensure and National Registry is accepted in all 50 states. As with any responsible business model, to have good, competent, available, and dependable instructors, we need to compensate them for their time. It is not feasible to go to every EMS department to teach a small group. Equipment is expensive. A push is being made to a more hybrid approach to EMT and EMR classes, including both an online section and then a practical in-person section. Success rates are climbing with these types of classes. Instructors are vetted and must show an ability to teach. Discussion was held on this topic. The Nebraska EMS Training Agency Association's commitment to the EMS Board and the State of Nebraska is provide quality educators for students, to provide quality and consistent EMS courses in all areas of the State that are accessible, to provide up-to-date equipment for the hands-on skills, to use data proven simulation techniques to foster critical thinking in the classroom, to follow through with the National Registry skills and written exams and to provide quality continuing education courses for EMS providers.

The Board took a short break at 1:48pm, resumed at 1:57pm.

1:48                *Bernhardson left.*  
1:51                *Harrison left.*

#### **AGENDA ITEM: EMR DISCUSSION**

Nebraska Board of EMS  
Minutes of the December 08, 2023, Meeting

Dr. Smith introduced the EMR Discussion.

- a) NHTSA National Emergency Medical Service Scope of Practice Model (see attachment) – page 18 and page 25 had a graph and chart and description of the levels of EMR Scope of practice. We refer to this due to this being the national standard.
- b) National Emergency Medical Services Education Standards (see attachment) – Another reference that goes through the educational model, breadth and depth of education for the EMR.
- c) State Data – (see attachment) Smith reviewed the graph of Transport Delay and asked Wilson about data on EMR response time, runs, delays, etc. There are 334 total EMRs in the State and 263 EMRs licensed on a service, including 911 and nontransport businesses. Discussion was held regarding the data and the “shortage” of EMRs.
- d) Discussion of Idaho’s Information – Smith reported an overview of information (see attached). There are certain circumstances where Idaho has a provision, called ambulance certification that requires additional training, allowing EMRs to transport. Wilson added Idaho has in their statutes an EMR Ambulance Certification Curriculum in addition to their EMR course where they complete additional training in order to be able to transport. It is around 90-100 class hours. Smith expressed concerns if standards are lowered. Discussion was held regarding why people would become EMTs and not just become EMRs.
- e) Discuss Centers for Medicare & Medicaid Services (CMS) Regulations and Third Party Payor – MLN (Medicare Learning Network) Matters (see attachment) was reviewed. EMRs cannot be reimbursed for transports.
- f) Liability (Public Health and Safety) – Smith asked the question, “How do we afford liability if we are allowing something to happen that is not happening nationally, if it is not done/supported by national standards, national education, et cetera? Could there be a liability issue if EMRs are allowed to transport?” DHHS Attorney, Lanphier-Willson, commented she will have to look into this liability issue and send the information she finds to Tim Wilson. Bernhardson commented, since 1997 there have been no articles or studies done on EMRs transporting. Discussion proceeded regarding classes for bridging up from EMR to EMT and the differences in education/hours between EMTs and EMRs. Discussion regarding school boundaries and how this affects number of bridge classes offered and attendance was also had. Bomars gave feedback adding of the 132 survey letters sent to EMRs regarding bridging up, 20% were received back. Names and contacts information of those wanting to become an EMT could be shared with members of the Board so they can reach out and encourage them to get their EMT license. They spoke with Maurine Larson at the Governor’s office and are looking forward 5-10 years from now. Smith reiterated the need to address this issue and work together to keep pushing things forward. The current challenge is to get everyone educated and provide our decision makers with accurate data.

### **AGENDA ITEM: EXECUTIVE COMMITTEE ELECTIONS**

Smith reviewed the process of using a Nominating Committee for the elections of Executive Committee members and Roberts Rules for elections. He turned the floor over to head of the Nomination Committee, Joel Cerny. Cerny reached out to all current members serving on the Executive Committee and all are willing to continue in their current roles. No emails were received for members seeking a position on the Executive Committee. Dr. Smith was nominated to serve as Chair of the Executive Committee of the EMS Board. Cerny opened the floor for any other nominations. No additional nominations were brought forward.

**MOTION:** Bailey made the motion, seconded by Bowlin to cease nominations and vote by acclamation that Dr. Smith continue for another term as Chair.

Voting Yes: Bailey, Bernhardson, Boldt, Bowlin, Cerny, Fiala, Hovey, Jensen, Kilstrom, Neumiller, and Petersen. Voting No: None. Abstain: Sheridan and Smith. Absent: Batenhorst, Harrison, Lottman and Vaughn. Motion carried.

Ann Fiala was nominated to serve as Vice-Chair of the Executive Committee of the EMS Board. Cerny opened the floor for any other nominations. No additional nominations were brought forward.

**MOTION:** Boldt made the motion, seconded by Petersen to cease nominations and vote by acclimation that Ann Fiala continue for another term as Vice Chair .

Voting Yes: Bailey, Bernhardson, Boldt, Bowlin, Cerny, Hovey, Jensen, Kilstrom, Neumiller, Petersen, and Smith. Voting No: None. Abstain: Fiala and Sheridan. Absent: Batenhorst, Harrison, Lottman and Vaughn. Motion carried.

Michael Bailey was nominated to serve as Secretary of the Executive Committee of the EMS Board. Cerny opened the floor for any other nominations. No additional nominations were brought forward.

**MOTION:** Boldt made the motion, seconded by Bernhardson to cease nominations and vote by acclimation that Michael Bailey continue for another term as Secretary.

Voting Yes: Bernhardson, Boldt, Bowlin, Cerny, Fiala, Hovey, Jensen, Kilstrom, Neumiller, Petersen, and Smith. Voting No: None. Abstain: Bailey and Sheridan. Absent: Batenhorst, Harrison, Lottman and Vaughn. Motion carried.

Liasons – Smith reached out to the current Liasons and all are willing to serve another term. No vote is required and these stay the same for another term as follows:

State Trauma Board Liaison – Mike Bailey

EMS for Children Liaison – Dr. Harrison

Nebraska Volunteer Firefighters Association Liaison – Joel Cerny

Nebraska EMS Association – Karen Bowlin

DHHS EMS Board Consultant – Dr. Bernhardson and Dr. Harrison (Pediatric capacity)

### **AGENDA ITEM: 2024 BOARD MEETING**

Smith presented the following proposed 2024 meeting dates: Friday, February 9, 2024; Monday, May 13, 2024; Friday, July 12, 2024 (in conjunction with the Statewide EMS Conference); Monday, September 9, 2024; and Friday, December 6, 2024.

**MOTION:** Bernhardson made the motion, seconded by Bailey to accept those dates for next year's meetings. Discussion – none had.

Voting Yes: Bailey, Bernhardson, Boldt, Bowlin, Cerny, Fiala, Hovey, Jensen, Kilstrom, Neumiller, Petersen, and Smith. Voting No: None. Abstain: Sheridan. Absent: Batenhorst, Harrison, Lottman, and Vaughn. Motion carried.

### **AGENDA ITEM: MEETING POSTINGS LOCATIONS**

Smith introduced the agenda item. Wilson presented that previously the postings of notification of meeting times and locations was done on the OEHS website, sent through OEHS contacts, through the newsletter and on the Public Meeting Calendar.

**MOTION:** Fiala made the motion, seconded by Petesen to continue as previously with posting the notification of meeting times and locations – on the OEHS website, sent through OEHS contacts, through the newsletter and on the Public Meeting Calendar. Discussion – none had.

Voting Yes: Bailey, Bernhardson, Boldt, Bowlin, Cerny, Fiala, Hovey, Jensen, Kilstrom, Neumiller, Petersen, and Smith. Voting No: None. Abstain: Sheridan. Absent: Batenhorst, Harrison, Lottman, and Vaughn. Motion carried.

**AGENDA ITEM: PUBLIC COMMENT**

Joseph Keene, Nationally Registered paramedic, spoke to faith in young people stepping up and taking on the role of volunteering and providing emergency medical services for people in Nebraska. He also spoke to delivery models and touched on Nebraska revised statute 38-1203 regarding reciprocity and the lack of opportunity for paramedics here in rural Nebraska. Low recruitment and retention in young people is due to time commitment and requirements with a lack of return on the investment. He talked about staffing and money. He also spoke to Nebraska not having any regulations requiring EMS to be paid nor do they have a funding model for it, so the State Legislature says counties are responsible for creating a tax-based system for funding EMS, whether it is by taxing residence and do third service, county-based agency, hospital-based, or fire-based EMS, etc. He presented a delivery model partnering with SafeTech Solutions who will do workforce studies. Do we really need 400 plus EMS agencies in the state? County based EMS and agencies promote a wider response and a wider staffing pool. This entices people to want to be a part of that service. Also there is a dedicated EMS agency per jurisdiction that is responsible for that care. Internal billing and reimbursements can be used. If agencies are allowed to bill internally and reimburse from CMS and from the insurance company, they can help fund their own program and pay their volunteers if they are on a call schedule or pay per run. A funding model should be set up a to entice people to go live in rural Nebraska and work as EMS providers.

Smith commented Nebraska requires eight hours of continuing education for EMRs, whereas Idaho requires 24 hours annually. Nebraska has tried to limit the excessive number of hours so that younger people don't have to spend that much time to maintain their competency. We need to continually thinking of ways to entice young people and education hours is one of the things we need to be cognizant of. People in EMS are not only passionate about EMS, but extremely territorial about EMS. We need to be more collaborative in order to break down these barriers. This may have to come from the State or from recommendations from the Board.

A good model is Cass County. At one time there was a bill about pushing it down to the county level, and that did not go well. The majority of the EMS in rural is done through the fire departments which creates territoriality. There is no funding for EMS. Smith spoke to the funding issue. There was another previous bill that didn't get very far requiring EMS agencies to bill patients. This may have to be revisited. Models that use a group purchasing organization have been looked at; maybe a group billing organization needs to be looked at for the whole State. Bowlin commented on the townhall meetings with SafeTech which talked about making ambulance service county-wide. These were not looked upon favorably. What the conflict boiled down to is who is going to be in charge of each county. Smith commented this may address medical directorship issues as well. Maybe regionalization of medical directors needs to be looked at.

**CONCLUSION AND ADJOURNMENT**

There being no further business Smith announced meeting adjourned at 2:59pm.

Respectfully submitted,

Tonja Bohling  
OEHS Administrative Technician



## Attachment A

### Emergency Medical Service Board Meeting, February 09, 2024 Office of Emergency Health Systems Reports

#### a) EMS Program (Jorgensen)

- In 2023, the EMS Program made 5,160 individual EMS contacts. So far in January 2024, there has been 57 EMS contacts. (These counts do not include others assisted such as hospitals, EMS training agencies, etc.) These individual contacts are largely due to their need for technical assistance.

- The number of licensed EMS services are below:

Western	66
Central	103
Northeast	119
Southeast	130
Total	418

- EMS service periodic inspections are continuing across the state. We continue doing some initial inspections of a few services that are changing license levels or changing ownership.
- We have a position open for the Northeast Region EMS Specialist. Brad Harm resigned in December to take another job opportunity. The position is posted, and we hope to have it filled soon.
- As part of the Nebraska EMS statewide assessment, EMS listening sessions were held in October by SafeTech Solutions. Two in-person listening sessions were held in each of the four EMS regions. SafeTech Solutions also had two virtual listening sessions in December. We are looking forward to the report this spring. Thank you to all that completed the surveys or attended a listening session.
- A Telehealth in EMS Demonstration Project has begun in Nebraska. A few services are participating in a one-year project. AVEL eCare is the company that has been installing equipment in the back of ambulances and conducting training for those services. We look forward to getting results back to quantify the benefits of an EMS telehealth system in Nebraska.
- PHHS Block Grant: Funding cycle began on 10-1-2023 and goes through 9-30-2024: Approved for \$30,000 to fund a community paramedicine instructor course and community paramedicine provider level courses.

#### b) Education and Training Agency Compliance (Snodgrass)



- Working with licensees with changes in expiration dates and renewals.
- Six training agency inspections to be scheduled for 2024.
- Scheduling EMS Instructor development opportunities.
- Education manager was able to join instructors from nationwide to work with NREMT on ALS cognitive exam item analysis.
- Working on the 2024 monthly Zoom continuing education class schedule. I'm always looking for topics and presenters!
- OEHS and Education Program will be working with services, providers, training agencies, and instructors regarding EMR scope of practice skills.

**c) Emergency Medical Services for Children Program (Kuhn)**

- The EMSC Program is moving forward with the hospital Pediatric Readiness recognition project. Diane and Becka will be handing out application packets when they are at hospital visits. Nebraska Medicine is the newest hospital to become Peds Ready. We are working with Nebraska Medicine-Bellevue on their approval. We had a booth at the ENA conference and distributed application packets.
- EMSC is encouraging services to designate a Pediatric Champion. Services that have designated a Pediatric Champion can participate in a Zoom one-hour training session on Spectrum Disorders-Autism. A Carter Kit will be provided to those services that complete the training.

**d) Critical Incident Stress Management Program (Kuhn)**

- The CISM Program is working with UNMC Nursing Department to update the nursing curricula to include CISM in the future. They are also adding CISM services while they are nursing students.
- The emergency response notification system has been active for a couple of months and seems to be working well. New badges have made and distributed to team members.
- The 2023 Statewide CISM Conference was held in September, 2023 with about 45 people in attendance. Discussion was held about moving the conference around the state instead of always holding it in Grand Island or Kearney.
- Nebraska CISM offered a program on PTSD vs Moral Injury on Zoom to all ambulance services and fire departments. About 100 people participated in the training. We are offering a Zoom presentation on February 1, 2024 for mental health providers, "Counseling on Access to Lethal Means."
- The 2024 CISM Training has been scheduled.
 

○ January 19 & 20	Assisting Individuals in Crisis (Peer Support)	Omaha
○ February 16 & 17	Group Intervention	Lincoln
○ April 6 & 7	Group Intervention	Scottsbluff
○ July 19 & 20	Group Intervention	Columbus
○ August 20 & 21	Assisting Individuals in Crisis (Peer Support)	Grand Island
○ October 18 & 19	Group Intervention	Bennington
○ November 8 & 9	Assisted Individuals in Crisis (Peer Support)	Omaha
- CISM interventions were requested over 110 times in 2023. The goal is to increase membership by 10% in 2024. Many of the current volunteers are retiring. The program needs new team members to keep CISM strong and continue to respond to intervention requests.

## e) Trauma System Program (Wren)

- *Trauma Center Designations:*
  - 53 Trauma Centers Designated
    - ❖ Designations:
      - Great Plains Regional, North Platte (General) – Region 3
      - Grand Island Regional, Grand Island (Basic) – Region 3
      - Annie Jeffrey Memorial Medical Center, Osceola (Basic) – Region 2
    - ❖ Pending:
      - Providence Medical Center, Wayne (Basic) – Region 1
      - Cherry County Hospital, Valentine (Basic) – Region 3
      - Phelps Memorial Hospital, Holdrege (Basic) – Region 3
      - Memorial Hospital, Pender (Basic) – Region 1
- *2024 Upcoming Trauma Center Designation Visits:*
  - Genoa Community Hospital, Genoa (Basic) – Region 1
  - St. Mary's Community Hospital, Nebraska City – Region 2
- *Grants:*
  - Nebraska Preventive Health and Health Services Block Grant (PHHSBG): 2023-2024 Grant Award = \$60,000. The funds will be used for the trauma registry, prevention, and leadership training.
- *Trauma Advisory Board Vacancies:*
  - EMS Agency Professional (Urban) – One vacancy
  - Physician practicing in emergency medicine (Rural level 3 or 4) – One vacancy
  - Region 2 Trauma Medical Director – One vacancy
  - Trauma Nurse Coordinator UNMC – One vacancy
- *Request for Proposal:*
  - Trauma Registry Request for Proposals are pending.
- *Legislative Updates – January 2024:*
  - LB1004 – Hansen – 1/5/2024 – Motorcycle Helmet Law. A clean-up bill to change that passengers on a motorcycle do not have to take a safety course. It currently requires passenger to take it.
  - LB1033 – Lippincott, 34; Aguilar, 35; Holdcroft, 36; Ibach, 44; Lowe, 37; Meyer, 41; Sanders, 45; Von Gillern, 4 – 1/5/2024. Texting Bill. moves the electronic device use while operating a motor vehicle from secondary to primary. 8 Senators onboard so far.
- *TQIP Update:*
  - Drill down of Unplanned Admission to the ICU from the Fall 2023 report will be done by each reporting facility for the next meeting.
  - Board involvement-Goal going forward is that each facility engages their TMD/provider to participate in their individual drill downs for next meeting.
  - The next collaborative meeting is scheduled for 2/21/2024.
- *Next Trauma Advisory Board Meeting:*
  - April 15, 2024 – Lincoln

## f) Stroke/STEMI System Program (Neumiller)

- *Stroke:*
  - Having finished up the 2023 grant year, my program sent a total of 6 RN's and one Dr. to advanced level stroke training, created public education materials in English and Spanish, and ended with a very successful Telemundo campaign thanks to Dr. Marco Gonzalez.
  - For the 2024 grant year the State Stroke Taskforce will be working on 2–3-day stroke bootcamps around the state as well as concentrating on women's unique stroke presentations that can cause

them to have delayed and missed diagnosis. The taskforce's goal is to equip women with the education they need to advocate for themselves and their loved ones.

- The taskforce is still looking for individuals who would like to participate on their EMS, clinical and rehab committees if you are interested, please let me know.
- **STEMI:**
  - Actively working on recruiting additional agencies to CARES (Cardiac Arrest Registry to Enhance Survival). CARES has seen a recent surge in states participating since receiving grants this year from the CDC (\$23 million) and the Helmsley Charitable Trust (\$899,215). Nebraska is one of 33 states that currently participate, the goal is to expand to all 50.
  - Leona M. and Harry B. Helmsley Charitable Trust Law Enforcement AED grant:
    - ❖ DHHS is entering into the final phase of the Helmsley Charitable Trust law enforcement (LE) AED grant. AS of 1/1/24 LE has used their AEDs 162 times prior to EMS arrival on scene with 14 known saves.
    - ❖ Nebraska, South Dakota, Montana along with The Helmsley Charitable Trust will be presenting the challenges and successes of this initiative at the Citizen CPR Cardiac Arrest Survival Summit at the end of November.

**g) EHS Data Systems Program (Steele)**

- The RFP is in the process of being reviewed.
- Assistance has been provided to various nurses throughout the State of Nebraska in utilization of the Trauma Registry software. As assistance is provided, possible improvements to the eNARSIS system have been identified. Some of those identified improvements are in the process of being made, these improvements will enable pre-hospital records and the integration of data between pre-hospital records and Trauma Registry to function better.
- Sharon Steele and Tim Wilson are working with the Trauma Data Dictionary Committee in the development of the NE Hybrid Trauma Data Dictionary.
- Mason Holmes and Sharon Steele have assisted Ambulance Service personnel by answering questions and making necessary updates to the pre-hospital Elite software and providing education.

Passing Percentages by Training Agency for January 1, 2023 -December 31, 2023

Training Agency	EMR			2 Year Avg	EMT			2 Year Avg	AEMT			2 Year Avg	Paramedic			2 Year Avg	Total		
	Attempt	Pass	%		Attempt	Pass	%		Attempt	Pass	%		Attempt	Pass	%		Attempt	Pass	%
111 - Metro CC					63	52	83%	85%					17	17	100%	100%	80	69	86%
113 - Creighton University					64	60	94%	94%					52	50	96%	97%	116	110	95%
119 - Omaha Fire Dept																			
120 - EMS Training Zone	14	14	100%	100%	23	18	78%	74%									37	32	86%
212 - Southeast CC					92	81	88%	88%					14	12	86%	89%	106	93	88%
215 - American Red Cross	2	2	100%	100%															
311 - Northeast CC				89%	46	40	87%	85%					5	3	60%	46%	51	43	84%
312 - CCC - Columbus					13	11	85%	84%									13	11	85%
314 - Union College					15	14	93%	96%									15	14	93%
411 - CCC - GI					32	23	72%	73%					8	7	88%	88%	40	30	75%
412 - CCC - Hastings					10	10	100%	91%									10	10	100%
413 - CCC - Lexington	6	6	100%	100%	11	6	55%	62%									17	12	71%
511 - MidPlains CC	2	2	100%	100%	11	8	73%	79%									13	10	77%
512 - McCook CC					15	9	60%	50%					25	23	92%	96%	40	32	80%
615 - Western Nebraska CC					21	17	81%	90%								100%	21	17	81%
623 - Panhandle EMS	14	11	79%	79%	8	2	25%	55%	15	11	73%	69%					37	24	65%
624 - School of EMS					7	6	86%	93%					14	11	79%	77%	21	17	81%
625 - Boys Town					43	35	81%	82%									43	35	81%
626 - Iowa Western*	7	6	86%	86%	71	31	44%	60%							73%		78	37	47%
State Totals	45	41	91%		545	423	78%		15	11	73%		135	123	91%		738	596	81%
National Totals							70%								72%				

\*No initial courses taught in Nebraska.

---

**NEBRASKA OPEN MEETINGS ACT**

---

**84-1407. Act, how cited.**

Sections 84-1407 to 84-1414 shall be known and may be cited as the Open Meetings Act.

Source: Laws 2004, LB 821, § 34.

**84-1408. Declaration of intent; meetings open to public.**

It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret.

Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act.

Source: Laws 1975, LB 325, § 1; Laws 1996, LB 900, § 1071; Laws 2004, LB 821, § 35.

**Annotations**

- Nebraska's public meetings laws do not apply to school board deliberations pertaining solely to disputed adjudicative facts. *McQuinn v. Douglas Cty. Sch. Dist. No. 66*, 259 Neb. 720, 612 N.W.2d 198 (2000).
- The primary purpose of the public meetings law is to ensure that public policy is formulated at open meetings. *Marks v. Judicial Nominating Comm.*, 236 Neb. 429, 461 N.W.2d 551 (1990).
- The public meetings law is broadly interpreted and liberally construed to obtain the objective of openness in favor of the public, and provisions permitting closed sessions must be narrowly and strictly construed. *Grein v. Board of Education of Fremont*, 216 Neb. 158, 343 N.W.2d 718 (1984).
- A county board of equalization is a public body whose meetings shall be open to the public. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

**84-1409. Terms, defined.**

For purposes of the Open Meetings Act, unless the context otherwise requires:

(1)(a) Public body means (i) governing bodies of all political subdivisions of the State of Nebraska, (ii) governing bodies of all agencies, created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (iii) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (iv) all study or

advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (v) advisory committees of the bodies referred to in subdivisions (i), (ii), and (iii) of this subdivision, and (vi) instrumentalities exercising essentially public functions; and

(b) Public body does not include (i) subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body, except that all meetings of any subcommittee established under section 81-15,175 are subject to the Open Meetings Act, and (ii) entities conducting judicial proceedings unless a court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders;

(2) Meeting means all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

(3) Videoconferencing means conducting a meeting involving participants at two or more locations through the use of audio-video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations.

**Source:** Laws 1975, LB 325, § 2; Laws 1983, LB 43, § 1; Laws 1989, LB 429, § 42; Laws 1989, LB 311, § 14; Laws 1992, LB 1019, § 124; Laws 1993, LB 635, § 1; Laws 1996, LB 1044, § 978; Laws 1997, LB 798, § 37; Laws 2004, LB 821, § 36; Laws 2007, LB296, § 810; Laws 2011, LB366, § 2.

#### **Annotations**

- A township is a political subdivision, and as such, a township board is subject to the provisions of the public meetings laws. *Steenblock v. Elkhorn Township Bd.*, 245 Neb. 722, 515 N.W.2d 128 (1994).
- A county agricultural society is a public body to which the provisions of the Nebraska public meetings law are applicable. *Nixon v. Madison Co. Ag. Soc'y*, 217 Neb. 37, 348 N.W.2d 119 (1984).
- Failure by a public governing body, as defined under section 84-1409, R.R.S.1943, to take and record a roll call vote on an action, as required by section 84-1413(2), R.S.Supp.,1980, grants any citizen the right to sue for the purpose of having the action declared void. In this case such failure could not be later corrected by a nunc pro tunc order because there was no showing that a roll call vote on the disputed action was actually taken, and even if it was the record showed it was not recorded until over a year later. Sections 23-1301, R.R.S.1943, and 23-1302, R.R.S.1943, make it the duty of the county clerk to record proceedings of the board of county commissioners. *State ex rel. Schuler v. Dunbar*, 208 Neb. 69, 302 N.W.2d 674 (1981).



- As an administrative agency of the county, a county board of equalization is a public body. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- The electors of a township at their annual meeting are a public body under the Open Meetings Act. *State ex rel. Newman v. Columbus Township Bd.*, 15 Neb. App. 656, 735 N.W.2d 399 (2007).
- The meeting at issue in this case was a "meeting" within the parameters of subsection (2) of this section because it involved the discussion of public business, the formation of tentative policy, or the taking of any action of the public power district. *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 578 N.W.2d 476 (1998).
- Informational sessions in which the governmental body hears reports are briefings. *Johnson v. Nebraska Environmental Control Council*, 2 Neb. App. 263, 509 N.W.2d 21 (1993).

**84-1410. Closed session; when; purpose; reasons listed; procedure; right to challenge; prohibited acts; chance meetings, conventions, or workshops.**

(1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as:

- (a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;
- (b) Discussion regarding deployment of security personnel or devices;
- (c) Investigative proceedings regarding allegations of criminal misconduct;
- (d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting;
- (e) For the Community Trust created under section 81-1801.02, discussion regarding the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster; or
- (f) For public hospitals, governing board peer review activities, professional review activities, review and discussion of medical staff investigations or disciplinary actions, and any strategy session concerning transactional negotiations with any referral source that is required by federal law to be conducted at arms length.

Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

(2) The vote to hold a closed session shall be taken in open session. The entire motion, the vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.

(3) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (a) the protection of the public interest or (b) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or other electronic communication shall be used for the purpose of circumventing the requirements of the act.

(5) The act does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

**Source:** Laws 1975, LB 325, § 3; Laws 1983, LB 43, § 2; Laws 1985, LB 117, § 1; Laws 1992, LB 1019, § 125; Laws 1994, LB 621, § 1; Laws 1996, LB 900, § 1072; Laws 2004, LB 821, § 37; Laws 2004, LB 1179, § 1; Laws 2006, LB 898, § 1; Laws 2011, LB390, § 29; Laws 2012, LB995, § 17.

**Annotations**

- There is no absolute discovery privilege for communications that occur during a closed session. *State ex rel. Upper Republican NRD v. District Judges*, 273 Neb. 148, 728 N.W.2d 275 (2007).
- If a person present at a meeting observes a public meetings law violation in the form of an improper closed session and fails to object, that person waives his or her right to object at a later date. *Wasikowski v. Nebraska Quality Jobs Bd.*, 264 Neb. 403, 648 N.W.2d 756 (2002).
- The public interest mentioned in this section is that shared by citizens in general and by the community at large concerning pecuniary or legal rights and liabilities. *Grein v. Board of Education*, 216 Neb. 158, 343 N.W.2d 718 (1984).
- Hearing in closed executive session was contrary to this section since there was no showing of necessity or reason under subdivision (1)(a), (b), or (c), but did not result in reversal of board decision. *Simonds v. Board of Examiners*, 213 Neb. 259, 329 N.W.2d 92 (1983).
- Negotiations for the purchase of land need not be conducted at an open meeting but the deliberations of a city council as to whether an offer to purchase real estate should be made should take place in an open meeting. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).
- Public meeting law was not violated where the Board of Regents of the University of Nebraska voted to hold a closed session to consider the university president's resignation, and also discussed the appointment of an interim president during such session. *Meyer v. Board of Regents*, 1 Neb. App. 893, 510 N.W.2d 450 (1993).

**84-1411. Meetings of public body; notice; contents; when available; right to modify; duties concerning notice; videoconferencing or telephone conferencing authorized; emergency meeting without notice; appearance before public body.**

(1) Each public body shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by each public body and recorded in its minutes. Such notice shall be transmitted to all members of the public body and to the public. Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than (a) twenty-four hours before the scheduled commencement of the meeting or (b) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2) A meeting of a state agency, state board, state commission, state council, or state committee, of an advisory committee of any such state entity, of an organization created under the Interlocal

Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a public power district having a chartered territory of more than one county in this state, of the governing body of a public power and irrigation district having a chartered territory of more than one county in this state, of a board of an educational service unit, of the Educational Service Unit Coordinating Council, of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, or of a community college board of governors may be held by means of videoconferencing or, in the case of the Judicial Resources Commission in those cases specified in section 24-1204, by telephone conference, if:

- (a) Reasonable advance publicized notice is given;
- (b) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing or telephone conferencing was not used;
- (c) At least one copy of all documents being considered is available to the public at each site of the videoconference or telephone conference;
- (d) At least one member of the state entity, advisory committee, board, council, or governing body is present at each site of the videoconference or telephone conference, except that a member of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis, an organization created under the Municipal Cooperative Financing Act, or a governing body of a risk management pool or an advisory committee of such organization or pool may designate a nonvoting designee, who shall not be included as part of the quorum, to be present at any site; and
- (e)(i) Except as provided in subdivision (2)(e)(ii) of this section, no more than one-half of the state entity's, advisory committee's, board's, council's, or governing body's meetings in a calendar year are held by videoconference or telephone conference; or
- (ii) In the case of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act, such organization holds at least one meeting each calendar year that is not by videoconferencing or telephone conferencing.

Videoconferencing, telephone conferencing, or conferencing by other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(3) A meeting of a board of an educational service unit, of the Educational Service Unit Coordinating Council, of the governing body of an entity formed under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, of a community college board of governors, of the governing body of a public power district, of the governing body of a public

power and irrigation district, or of the Nebraska Brand Committee may be held by telephone conference call if:

(a) The territory represented by the educational service unit, member educational service units, community college board of governors, public power district, public power and irrigation district, Nebraska Brand Committee, or member public agencies of the entity or pool covers more than one county;

(b) Reasonable advance publicized notice is given which identifies each telephone conference location at which there will be present: (i) A member of the educational service unit board, council, community college board of governors, governing body of a public power district, governing body of a public power and irrigation district, Nebraska Brand Committee, or entity's or pool's governing body; or (ii) A nonvoting designee designated under subdivision (3)(f) of this section;

(c) All telephone conference meeting sites identified in the notice are located within public buildings used by members of the educational service unit board, council, community college board of governors, governing body of the public power district, governing body of the public power and irrigation district, Nebraska Brand Committee, or entity or pool or at a place which will accommodate the anticipated audience;

(d) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if a telephone conference call was not used;

(e) At least one copy of all documents being considered is available to the public at each site of the telephone conference call;

(f) At least one member of the educational service unit board, council, community college board of governors, governing body of the public power district, governing body of the public power and irrigation district, Nebraska Brand Committee, or governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice, except that a member of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis, an organization created under the Municipal Cooperative Financing Act, or a governing body of a risk management pool or an advisory committee of such organization or pool may designate a nonvoting designee, who shall not be included as part of the quorum, to be present at any site;

(g) The telephone conference call lasts no more than five hours; and

(h) No more than one-half of the board's, council's, governing body's, committee's, entity's, or pool's meetings in a calendar year are held by telephone conference call, except that:

(i) The governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by

telephone conference call if the governing body's quarterly meetings are not held by telephone conference call or videoconferencing; and

(ii) An organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act may hold more than one-half of its meetings by telephone conference call if the organization holds at least one meeting each calendar year that is not by videoconferencing or telephone conference call.

Nothing in this subsection shall prevent the participation of consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(6) A public body may allow a member of the public or any other witness other than a member of the public body to appear before the public body by means of video or telecommunications equipment.

**Source:**Laws 1975, LB 325, § 4; Laws 1983, LB 43, § 3; Laws 1987, LB 663, § 25; Laws 1993, LB 635, § 2; Laws 1996, LB 469, § 6; Laws 1996, LB 1161, § 1; Laws 1999, LB 47, § 2; Laws 1999, LB 87, § 100; Laws 1999, LB 461, § 1; Laws 2000, LB 968, § 85; Laws 2004, LB 821, § 38; Laws 2004, LB 1179, § 2; Laws 2006, LB 898, § 2; Laws 2007, LB199, § 9; Laws 2009, LB361, § 2; Laws 2012, LB735, § 1; Laws 2013, LB510, § 1; Laws 2017, LB318, § 1; Laws 2019, LB212, § 5.

**Effective Date:** September 1, 2019

#### **Cross References**

- **Intergovernmental Risk Management Act**, see section 44-4301.
- **Interlocal Cooperation Act**, see section 13-801.
- **Joint Public Agency Act**, see section 13-2501.
- **Municipal Cooperative Financing Act**, see section 18-2401.

#### **Annotations**



- Under subsection (1) of this section, the Legislature has imposed only two conditions on the public body's notification method of a public meeting: (1) It must give reasonable advance publicized notice of the time and place of each meeting and (2) it must be recorded in the public body's minutes. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).
- An emergency is "(a)ny event or occasional combination of circumstances which calls for immediate action or remedy; pressing necessity; exigency; a sudden or unexpected happening; an unforeseen occurrence or condition." *Steenblock v. Elkhorn Township Bd.*, 245 Neb. 722, 515 N.W.2d 128 (1994).
- An agenda which gives reasonable notice of the matters to be considered at a meeting of a city council complies with the requirements of this section. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).
- When notice is required, a notice of a special meeting of a city council posted in three public places at 10:00 p.m. on the day preceding the meeting is not reasonable advance publicized notice of a meeting as is required by this section. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).
- Teacher waived right to object to lack of public notice in board of education employment hearing by voluntary participation in the hearing without objection. *Alexander v. School Dist. No. 17*, 197 Neb. 251, 248 N.W.2d 335 (1976).
- A county board of commissioners and a county board of equalization are not required to give separate notices when the notice states only the time and place that the boards meet and directs a citizen to where the agendas for each board can be found. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- A county board of equalization is a public body which is required to give advanced publicized notice of its meetings. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- Notice of recessed and reconvened meetings must be given in the same fashion as the original meeting. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- True notice of a meeting is not given by burying such in the minutes of a prior board proceeding. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- An agenda notice which merely stated "work order reports" was an inadequate notice under this section because it did not give interested persons knowledge that plans for a 345 kv transmission line through the district was going to be discussed and voted upon at the meeting. Inadequate agenda notice under this section meant there was a substantial violation of the public meeting laws; however, later actions by the board of directors cured the defects in notice, and such actions were in substantial compliance with the statute. *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 578 N.W.2d 476 (1998).

**84-1412. Meetings of public body; rights of public; public body; powers and duties.**

(1) Subject to the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 84-1410, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

(2) It shall not be a violation of subsection (1) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

(3) No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body may require any member of the public desiring to address the body to identify himself or herself.

(4) No public body shall, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(5) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(6) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if:

(a) A member entity of the public body is located outside of this state and the meeting is in that member's jurisdiction;

(b) All out-of-state locations identified in the notice are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience;

(c) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including making a telephone conference call available at an in-state location to members, the public, or the press, if requested twenty-four hours in advance;

(d) No more than twenty-five percent of the public body's meetings in a calendar year are held out-of-state;

(e) Out-of-state meetings are not used to circumvent any of the public government purposes established in the Open Meetings Act;

(f) Reasonable arrangements are made to provide viewing at other instate locations for a videoconference meeting if requested fourteen days in advance and if economically and reasonably available in the area; and

(g) The public body publishes notice of the out-of-state meeting at least twenty-one days before the date of the meeting in a legal newspaper of statewide circulation.

(7) The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting.

(8) Public bodies shall make available at the meeting or the instate location for a telephone conference call or videoconference, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

**Source:** Laws 1975, LB 325, § 5; Laws 1983, LB 43, § 4; Laws 1985, LB 117, § 2; Laws 1987, LB 324, § 5; Laws 1996, LB 900, § 1073; Laws 2001, LB 250, § 2; Laws 2004, LB 821, § 39; Laws 2006, LB 898, § 3; Laws 2008, LB962, § 1.

**Annotations**

- To preserve an objection that a public body failed to make documents available at a public meeting as required by subsection (8) of this section, a person who attends a public meeting must not only object to the violation, but must make that objection to the public body or to a member of the public body. *Stoetzel & Sons v. City of Hastings*, 265 Neb. 637, 658 N.W.2d 636 (2003).

**84-1413. Meetings; minutes; roll call vote; secret ballot; when.**

(1) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

(2) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a public body which utilizes an electronic voting device which allows the yeas and nays of each member of such public body to be readily seen by the public.

(3) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

(4) The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

(5) Minutes shall be written, except as provided in subsection (6) of this section, and available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier, except that cities of the second class and villages may have an additional ten working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency.

(6) Minutes of the meetings of the board of a school district or educational service unit may be kept as an electronic record.

**Source:** Laws 1975, LB 325, § 6; Laws 1978, LB 609, § 3; Laws 1979, LB 86, § 9; Laws 1987, LB 663, § 26; Laws 2005, LB 501, § 1; Laws 2009, LB361, § 3; Laws 2015, LB365, § 2; Laws 2016, LB876, § 1.

#### **Annotations**

- If a person present at a meeting observes and fails to object to an alleged public meetings laws violation in the form of a failure to conduct rollcall votes before taking actions on questions or motions pending, that person waives his or her right to object at a later date. *Hauser v. Nebraska Police Stds. Adv. Council*, 264 Neb. 944, 653 N.W.2d 240 (2002).
- Subsection (2) of this section does not require the record to state that the vote was by roll call, but requires only that the record show if and how each member voted. Neither does the statute set a time limit for recording the results of a vote, after which no corrections of the record can be made. If no intervening rights of third persons have arisen, a board of county commissioners has power to correct the record of the proceedings had at a previous meeting so as to make them speak the truth, particularly where the correction supplies some omitted fact or action and is done not to contradict or change the original record but to have the record show that a certain action was taken or thing done, which the original record fails to show. *State ex rel. Schuler v. Dunbar*, 214 Neb. 85, 333 N.W.2d 652 (1983).
- Failure by a public governing body, as defined under section 84-1409, R.R.S.1943, to take and record a roll call vote on an action, as required by section 84-1413(2), R.S.Supp.,1980, grants any citizen the right to sue for the purpose of having the action declared void. In this case such failure could not be later corrected by a nunc pro tunc order because there was no showing that a roll call vote on the disputed action was actually taken, and even if it was the record showed it was not recorded until over a year later. Sections 23-1301, R.R.S.1943, and 23-1302, R.R.S.1943, make it the duty of the county clerk to record proceedings of the board of county commissioners. *State ex rel. Schuler v. Dunbar*, 208 Neb. 69, 302 N.W.2d 674 (1981).
- There is no requirement that a public body make a record of where notice was published or posted. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

**84-1414. Unlawful action by public body; declared void or voidable by district court; when; duty to enforce open meeting laws; citizen's suit; procedure; violations; penalties.**

(1) Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in violation of the Open Meetings Act shall be declared void by the district court if the suit is commenced within one hundred twenty days of the meeting of the public body at which the alleged violation occurred. Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in substantial violation of the Open Meetings Act shall be voidable by the district court if the suit is commenced more than one hundred twenty days after but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

(2) The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce the Open Meetings Act.

(3) Any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of the Open Meetings Act, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of the act to discussions or decisions of the public body. It shall not be a defense that the citizen attended the meeting and failed to object at such time. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this section.

(4) Any member of a public body who knowingly violates or conspires to violate or who attends or remains at a meeting knowing that the public body is in violation of any provision of the Open Meetings Act shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second or subsequent offense.

**Source:** Laws 1975, LB 325, § 9; Laws 1977, LB 39, § 318; Laws 1983, LB 43, § 5; Laws 1992, LB 1019, § 126; Laws 1994, LB 621, § 2; Laws 1996, LB 900, § 1074; Laws 2004, LB 821, § 40; Laws 2006, LB 898, § 4.

**Annotations**

- The Legislature has granted standing to a broad scope of its citizens for the very limited purpose of challenging meetings allegedly in violation of the Open Meetings Act, so that they may help police the public policy embodied by the act. *Schauer v. Grooms*, 280 Neb. 426, 786 N.W.2d 909 (2010).
- Any citizen of the state may commence an action to declare a public body's action void. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).
- The reading of ordinances constitutes a formal action under subsection (1) of this section. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).

- If a person present at a meeting observes a public meetings law violation in the form of an improper closed session and fails to object, that person waives his or her right to object at a later date. *Wasikowski v. Nebraska Quality Jobs Bd.*, 264 Neb. 403, 648 N.W.2d 756 (2002).
- Under the Public Meetings Act, a county lacks capacity to maintain an action to declare its official conduct "void" for noncompliance with the act. *County of York v. Johnson*, 230 Neb. 403, 432 N.W.2d 215 (1988).
- When a petitioner under this section is successful in the district court, that court may allow attorney fees. *Tracy Corp. II v. Nebraska Pub. Serv. Comm.*, 218 Neb. 900, 360 N.W.2d 485 (1984).
- Informal discussions between the Tax Commissioner and the State Board of Equalization in which instructions were clarified, with such clarification leading to the amendment of hearing notices, did not constitute a public meeting subject to the provisions of this section. *Box Butte County v. State Board of Equalization and Assessment*, 206 Neb. 696, 295 N.W.2d 670 (1980).
- The right to collaterally attack an order made in contravention of the Public Meeting Act must occur within a period of one year as is specifically provided by this section. *Witt v. School District No. 70*, 202 Neb. 63, 273 N.W.2d 669 (1979).
- Statutory change, requiring "publicized notice" for board of education employment hearings, occurring between dates meeting scheduled and conducted, held not to void proceedings. *Alexander v. School Dist. No. 17*, 197 Neb. 251, 248 N.W.2d 335 (1976).
- Voiding an entire meeting is a proper remedy for violations of the Open Meetings Act. Once a meeting has been declared void pursuant to Nebraska's public meetings law, board members are prohibited from considering any information obtained at the illegal meeting. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- Actions by the board of directors were merely voidable under this section, and not void. Pursuant to subsection (3) of this section, the plaintiffs were awarded partial attorney fees because they were successful in having the court declare that the board of directors was in substantial violation of the statute, even though the plaintiffs did not get the relief requested of having the board's actions declared void. *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 578 N.W.2d 476 (1998).

Source: [http://nebraskalegislature.gov/laws/display\\_html.php?begin\\_section=84-1407&end\\_section=84-1414](http://nebraskalegislature.gov/laws/display_html.php?begin_section=84-1407&end_section=84-1414)

Date: July 2019