

Nebraska Health Information Technology Board

Meeting Agenda

Date: March 27, 2025

Time: 12:00pm

Location: *Virtual*

Teams Link: https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZWZjZjBhYtItNmVkZC00OGM5LTlkNjItNWQyYzJlZWewZjkw%40thread.v2/0?context=%7b%22Tid%22%3a%222df7ed41-2c56-4a6d-ae0d-9670b9b31040%22%2c%22Oid%22%3a%221a3f07a4-6f3f-41f3-a409-d25a395e3e77%22%7d

Method and date of public notice: Posted to Public Meeting Calendar (nebraska.gov) on March 14, 2025.

Per Neb. Rev. Stat. § 84-1411(3)(b)(ii), a physical meeting location has been arranged at the Benson Branch of Omaha Public Libraries at 6015 Binney St, Omaha, NE 68104.

Item	Description	Action*	Time
1. Roll Call	Roll call attendance, determine if quorum present. (Administrator)	Roll Call	12:00
2. Open Meetings Act and Materials	Administrator will announce where the Open Meetings Act and Materials can be found.	--	12:02
3. Approval of Minutes	Board will review and approve minutes for the December 12, 2024 meeting. (Vice Chair)	Voice Vote	12:03
4. DHHS Historical Project Updates	An update will be provided regarding the DHHS historical data project. (Felicia Quintana-Zinn)	--	12:05
5. Payor Data Standards Policy Metrics	Overview of current metrics for the Payor Data Standards Policy. (Darryl Millner)	--	12:15
6. Policy Reviews	Review and approval of three HIT policies with recommended updates. (Vice Chair) <ul style="list-style-type: none"> • State of Nebraska Health Information Exchange Payor Data Standards Policy • State of Nebraska Health Information Technology Board PDMP Data Requests Policy • State of Nebraska Prescription Drug Monitoring Program Workflow Integration Policy 	Voice Vote	12:23
7. Comments from the Board	Board Members are allotted time for any comments or questions.	--	12:53
8. Comments from the Public	Individuals from the Public are allotted time for any comments. <i>Individuals will need to identify themselves for reflection in the meeting minutes using their name, address, and the name of any organization they represent.</i>	--	12:56
9. Adjourn	Adjournment of the Board Meeting. (Vice Chair) <i>Next Meeting: June 12, 2025 (in-person in Lincoln, NE)</i>	Voice Vote	12:59

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).
- Although a committee was a subcommittee of a natural resources district board, it was not subject to the Open Meetings Act because there was never a quorum of board members in attendance and the committee did not hold hearings, make policy, or take formal action on behalf of the board. *Koch v. Lower Loup NRD*, 27 Neb. App. 301, 931 N.W.2d 160 (2019).
- 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, (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, and (iii) the Judicial Resources Commission or subcommittees or subgroups of the commission;

(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) Virtual conferencing means conducting or participating in a meeting electronically or telephonically with interaction among the participants subject to subsection (2) of section 84-1412.

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; Laws 2021, LB83, § 11; Laws 2022, LB922, § 12.

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).
- Although a committee was a subcommittee of a natural resources district board, it was not subject to the Open Meetings Act because there was never a quorum of board members in attendance and the committee did not hold hearings, make policy, or take formal action on behalf of the board. *Koch v. Lower Loup NRD*, 27 Neb. App. 301, 931 N.W.2d 160 (2019).
- Although the Open Meetings Act does not define "subcommittee," a subcommittee is generally defined as a group within a committee to which the committee may refer business. *Koch v. Lower Loup NRD*, 27 Neb. App. 301, 931 N.W.2d 160 (2019).
- The Open Meetings Act does not require policymakers to remain ignorant of the issues they must decide until the moment the public is invited to comment on a proposed policy. By excluding nonquorum subgroups from the definition of a public body, the Legislature has balanced the public's need to be heard on matters of public policy with a practical accommodation for a public body's need for information to conduct business. *Koch v. Lower Loup NRD*, 27 Neb. App. 301, 931 N.W.2d 160 (2019).
- 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; method; contents; when available; right to modify; duties concerning notice; virtual conferencing authorized; requirements; emergency meeting without notice; appearance before public body; applicability of section.

(1) Until January 1, 2025:

(a) Except as provided in subsection (10) of this section, each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.

(b)(i) Except as provided in subdivision (1)(b)(ii) of this section, in the case of a public body described in subdivision (1)(a)(i) of section 84-1409 or such body's advisory committee, such notice shall be published in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website.

(ii) In the case of the governing body of a city of the second class or village or such body's advisory committee or the governing body of a rural or suburban fire protection district, such notice shall be published by:

(A) Publication in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website; or

(B) Posting written notice in three conspicuous public places in such city, village, or district. Such notice shall be posted in the same three places for each meeting.

(iii) In the case of a public body not described in subdivision (1)(b)(i) or (ii) of this section, such notice shall be given by a method designated by the public body.

(iv) In case of refusal, neglect, or inability of the newspaper to timely publish the notice, the public body shall (A) post such notice on its website, if available, and (B) post such notice in a conspicuous public place in such public body's jurisdiction. The public body shall keep a written record of such posting. The record of such posting shall be evidence that such posting was done as required and shall be sufficient to fulfill the requirement of publication.

(c) In addition to a method of notice required by subdivision (1)(b)(i) or (ii) of this section, such notice may also be provided by any other appropriate method designated by such public body or such advisory committee.

(d) Each public body shall record the methods and dates of such notice in its minutes.

(e) 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 (i) twenty-four hours before the scheduled commencement of the meeting or (ii) 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) Beginning January 1, 2025:

(a) Except as provided in subsection (10) of this section, each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.

(b)(i) Except as provided in subdivision (2)(b)(ii) of this section, in the case of a public body described in subdivision (1)(a)(i) of section 84-1409 or such body's advisory committees, such

notice shall be given by:

(A)(I) Publication in a newspaper of general circulation within the public body's jurisdiction that is finalized for printing prior to the time and date of the meeting, (II) posting on such newspaper's website, if available, and (III) posting on a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers. Such notice shall be placed in the newspaper and on the websites by the newspaper; or

(B)(I) Posting to the newspaper's website, if available, and (II) posting to a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers if no edition of a newspaper of general circulation within the public body's jurisdiction is to be finalized for printing prior to the time and date of the meeting. Such notice shall be placed in the newspaper and on the websites by the newspaper.

(ii) In the case of the governing body of a city of the second class or village, any advisory committee of such governing body, or the governing body of a rural or suburban fire protection district, such notice shall be given by:

(A)(I) Publication in a newspaper of general circulation within the public body's jurisdiction that is finalized for printing prior to the time and date of the meeting, (II) posting on such newspaper's website, if available, and (III) posting on a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers. Such notice shall be placed in the newspaper and on the websites by the newspaper;

(B)(I) Posting to the newspaper's website, if available, and (II) posting on a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers if no edition of a newspaper of general circulation within the public body's jurisdiction is to be finalized for printing prior to the time and date of the meeting. Such notice shall be placed in the newspaper and on the websites by the newspaper; or

(C) Posting written notice in three conspicuous public places in such city, village, or district. Such notice shall be posted by the public body in the same three places for each meeting.

(iii) In the case of a public body not described in subdivision (2)(b)(i) or (ii) of this section, such notice shall be given by a method designated by the public body.

(iv) In case of refusal, neglect, or inability of the newspaper to publish the notice, the public body shall (A) post such notice on its website, if available, (B) submit a post on a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers, and (C) post such notice in a conspicuous public place in such public body's jurisdiction. The public body shall keep a written record of such posting. The record of such posting shall be evidence that such posting was done as required and shall be sufficient to fulfill the requirement of publication.

(3)(a) The following entities may hold a meeting by means of virtual conferencing if the requirements of subdivision (3)(b) of this section are met:

(i) A state agency, state board, state commission, state council, or state committee, or an advisory committee of any such state entity;

(ii) An organization, including the governing body, created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act;

(iii) The governing body of a public power district having a chartered territory of more than one county in this state;

(iv) The governing body of a public power and irrigation district having a chartered territory of more than one county in this state;

(v) An educational service unit;

(vi) The Educational Service Unit Coordinating Council;

(vii) An organization, including the governing body, of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act;

(viii) A community college board of governors;

(ix) The Nebraska Brand Committee;

(x) A local public health department;

(xi) A metropolitan utilities district;

(xii) A regional metropolitan transit authority; and

(xiii) A natural resources district.

(b) The requirements for holding a meeting by means of virtual conferencing are as follows:

(i) Reasonable advance publicized notice is given as provided in subsections (1) and (2) of this section, including providing access to a dial-in number or link to the virtual conference;

(ii) In addition to the public's right to participate by virtual conferencing, reasonable arrangements are made to accommodate the public's right to attend at a physical site and participate as provided in section 84-1412, including reasonable seating, in at least one designated site in a building open to the public and identified in the notice, with: At least one member of the entity holding such meeting, or his or her designee, present at each site; a recording of the hearing by audio or visual recording devices; and a reasonable opportunity for input, such as public comment or questions, is provided to at least the same extent as would be provided if virtual conferencing was not used;

(iii) At least one copy of all documents being considered at the meeting is available at any physical site open to the public where individuals may attend the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act; and

(iv) Except as otherwise provided in this subdivision, subsection (1) of section 70-1014, subsection (2) of section 70-1014.02, or subsection (4) of section 79-2204, no more than one-half of the meetings of the state entities, advisory committees, boards, councils, organizations, or governing bodies are held by virtual conferencing in a calendar year. In the case of (A) an organization created under the Interlocal Cooperation Act that sells electricity or natural gas, (B) an organization created under the Municipal Cooperative Financing Act, (C) a governing body of a risk management pool and any advisory committee of such governing body, or (D) any advisory committee of any state entity created in response to the Opioid Prevention and Treatment Act, such organization, governing body, or committee may hold more than one-half of its meetings by virtual conferencing if such organization holds at least one meeting each calendar year that is not by virtual conferencing.

(4) Virtual conferencing, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(5) 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.

(6) 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 virtual conferencing. The provisions of subsection (5) 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.

(7) A public body may allow a member of the public or any other witness to appear before the public body by means of virtual conferencing.

(8)(a) Notwithstanding subsections (3) and (6) of this section, if an emergency is declared by the Governor pursuant to the Emergency Management Act as defined in section 81-829.39, a public body the territorial jurisdiction of which is included in the emergency declaration, in whole or in part, may hold a meeting by virtual conferencing during such emergency if the public body gives reasonable advance publicized notice as described in subsections (1) and (2) of this section. The notice shall include information regarding access for the public and news media. In addition to any formal action taken pertaining to the emergency, the public body may hold such meeting for the purpose of briefing, discussion of public business, formation of tentative policy, or the taking of any action by the public body.

(b) The public body shall provide access by providing a dial-in number or a link to the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act. Reasonable arrangements shall be made to accommodate the public's right to hear and speak at the meeting and record the meeting. Subsection (5) of this section shall be complied with in conducting such meetings.

(c) The nature of the emergency shall be stated in the minutes. Complete minutes of such meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available for inspection as provided in subsection (5) of section 84-1413.

(9) In addition to any other statutory authorization for virtual conferencing, any public body not listed in subdivision (3)(a) of this section may hold a meeting by virtual conferencing if:

(a) The purpose of the virtual meeting is to discuss items that are scheduled to be discussed or acted upon at a subsequent non-virtual open meeting of the public body;

(b) No action is taken by the public body at the virtual meeting; and

(c) The public body complies with subdivisions (3)(b)(i) and (ii) of this section.

(10) This section does not apply to a meeting of the Nebraska Power Review Board or a public power district, a public power and irrigation district, an electric membership association, an electric cooperative company, a municipality having a generation and distribution system, or a registered group of municipalities if such meeting is subject to section 70-1034.

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; Laws 2020, LB148, § 3; Laws 2021, LB83, § 12; Laws 2022, LB742, § 1; Laws 2022, LB908, § 1; Laws 2022, LB922, § 13; Laws 2024, LB287, § 74; Laws 2024, LB399, § 4; Laws 2024, LB1370, § 8.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB287, section 74, with LB399, section 4, and LB1370, section 8, to reflect all amendments.

Note: Changes made by LB287 became operative April 17, 2024. Changes made by LB399 became effective July 19, 2024. Changes made by LB1370 became operative July 19, 2024.

Cross References

- **Emergency Management Act**, see section 81-829.36.
- **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.
- **Opioid Prevention and Treatment Act**, see section 71-2485.

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, a camera, video equipment, or any other means of pictorial or sonic reproduction or in writing. Except for closed sessions called pursuant to section 84-1410, a public body shall allow members of the public an opportunity to speak at each meeting.

(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, including meetings held by virtual conferencing.

(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 shall require any member of the public desiring to address the body to identify himself or herself, including an address and the name of any organization represented by such person unless the address requirement is waived to protect the security of the individual.

(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 virtual conferencing 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; and

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

(8) Public bodies shall make available at the meeting or the in-state location for virtual conferencing as required by subdivision (6)(c) of this section, 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, either in paper or electronic form. 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; Laws 2021, LB83, § 13; Laws 2024, LB43, § 21.

Operative Date: July 19, 2024

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; agenda and minutes; required on website; 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 or kept as an electronic record and shall be 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 or keeping the minutes is absent due to a serious illness or emergency.

(6) Beginning July 31, 2022, the governing body of a natural resources district, the city council of a city of the metropolitan class, the city council of a city of the primary class, the city

council of a city of the first class, the county board of a county with a population greater than twenty-five thousand inhabitants, and the school board of a school district shall make available on such entity's public website the agenda and minutes of any meeting of the governing body. The agenda shall be placed on the website at least twenty-four hours before the meeting of the governing body. Minutes shall be placed on the website at such time as the minutes are available for inspection as provided in subsection (5) of this section. This information shall be available on the public website for at least six months.

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; Laws 2021, LB83, § 14; Laws 2022, LB742, § 2.

Annotations

- Under prior law, 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).

Compliance Metrics for Payor Policies

Outreach and Compliance Efforts

1st Quarter 2025 Report

Introduction

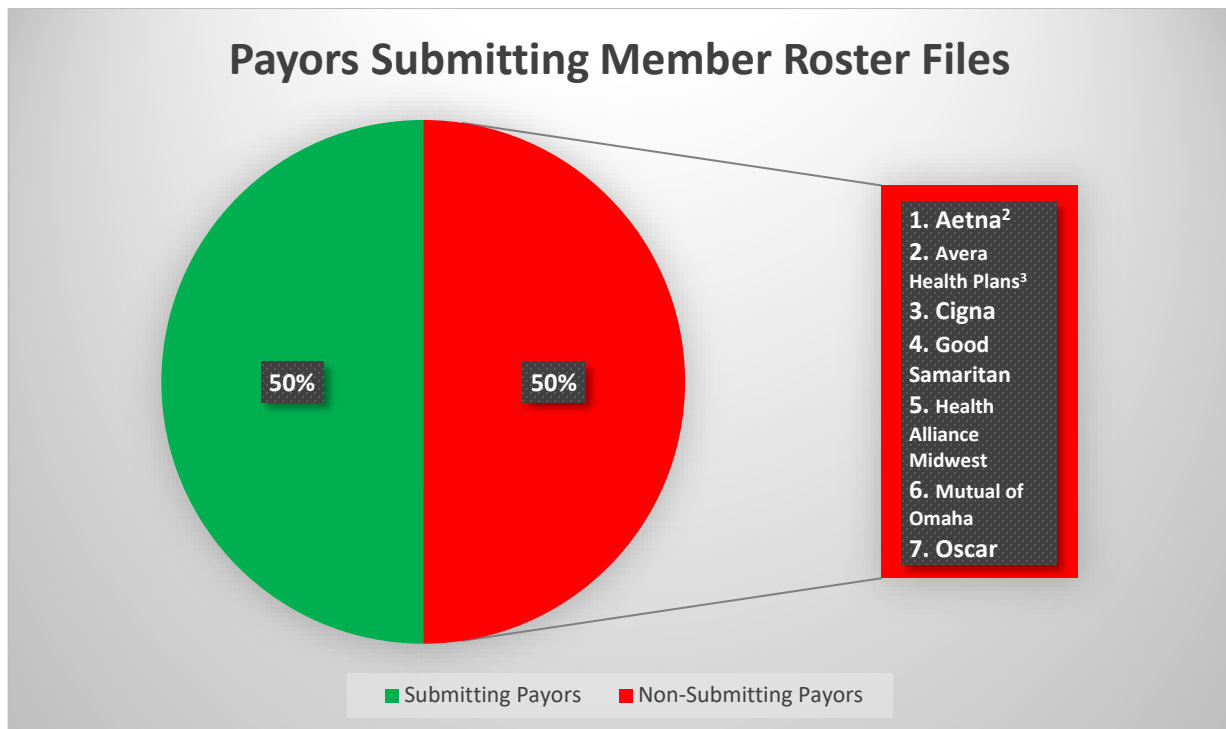
Purpose: This report responds to the request from the Nebraska Health Information Technology (HIT) Board Subcommittee's request on October 28, 2024, regarding the quarterly compliance metrics for the Payor Data Standards Policy.

Payor Data Standards Policy: All payors listed under Neb. Rev. Stat. § [81-6125](#) are required to report 835 and 837 files to CyncHealth in accordance with this policy. Additionally, Nebraska Medicaid Managed Care Organizations (MCOs) must share Social Care Data, as defined by this policy, with the designated statewide Health Information Exchange (HIE), CyncHealth. The full policy can be accessed through this link: [HIT-Board-Policy HIE-Payor-Data-Standards pdf.pdf](#)

Compliance Overview

Compliance of Payors Submitting Member Eligibility Files:

- Total Payors in Scope to Submit Member Eligibility Files: 14¹
- Payors Submitting Member Eligibility Files: 7
- Payors Not Submitting Member Eligibility Files: 7



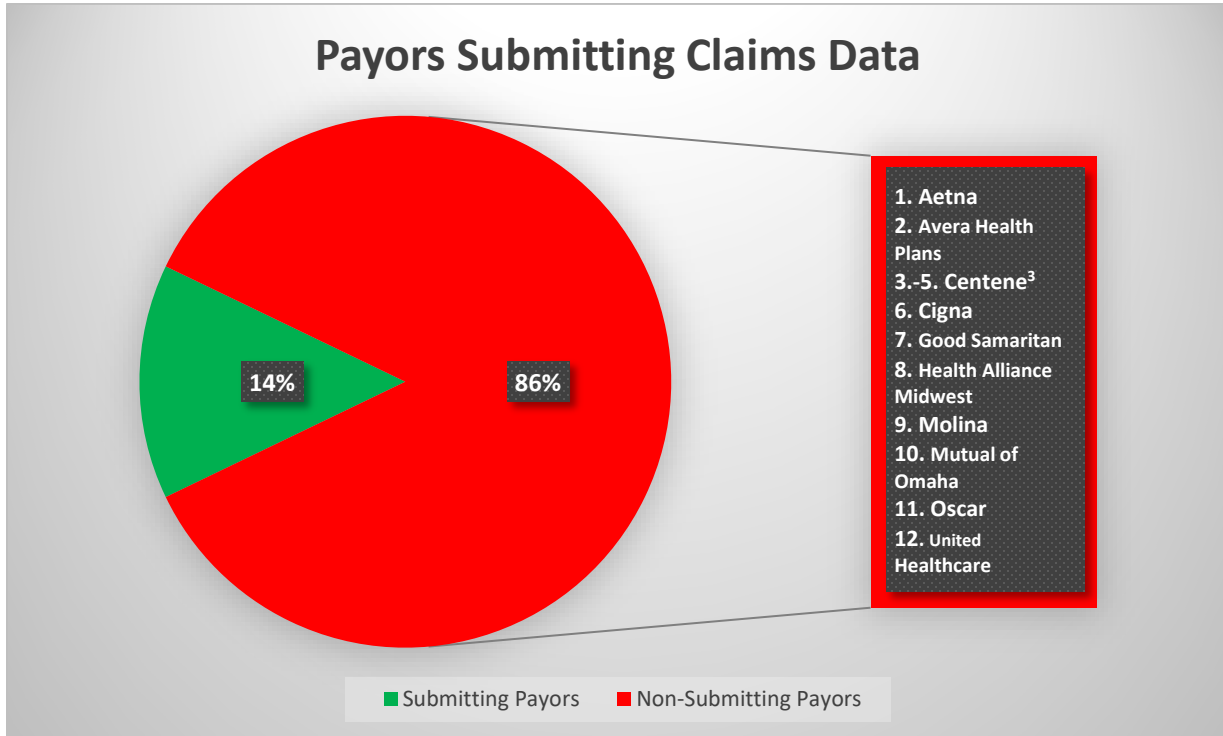
¹ Aetna, Avera Health Plans, BCBS, Centene (Ambetter, Nebraska Total Care, Wellcare), Cigna, Good Samaritan, Health Alliance Midwest, Medica, Molina, Mutual of Omaha, Oscar, United Healthcare

² Aetna terminated its participation agreement with CyncHealth effective September 2024.

³ Avera Health Plans does not submit eligibility files due to the minimal coverage (29 members) in the state.

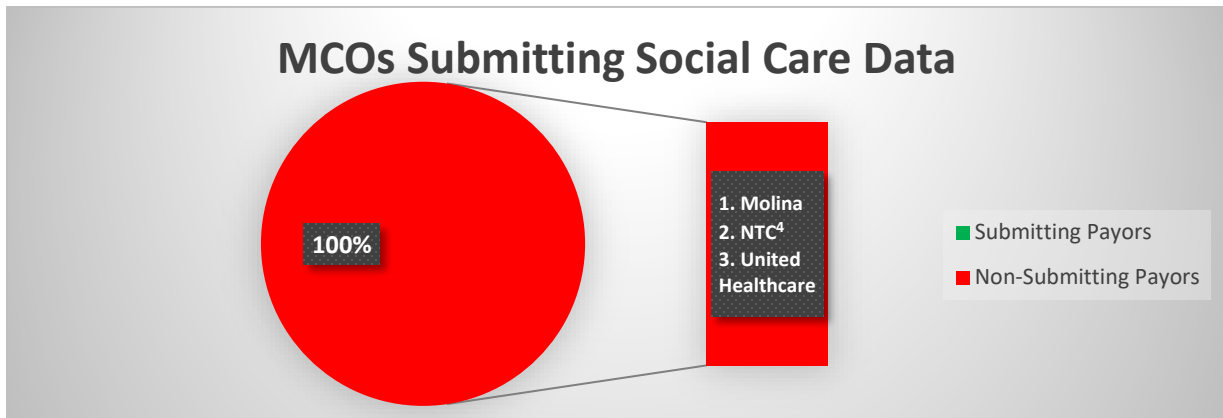
Compliance of Payors Submitting Claims Data:

- Total Payors in Scope to Submit Claims Data: 14
- Payors Submitting Claims Data: 2
- Payors Not Submitting Claims Data: 12



Compliance of Medicaid Managed Care Organization's (MCOs) Submitting Social Care Data:

- Total MCOs Required to Submit Social Care Data: 3
- MCOs Submitting Social Care Data: 0
- MCOs Not Submitting Social Care Data: 3



³Centene (Ambetter, Nebraska Total Care, Wellcare) submits 837 claims only (without sending 835 claims).

⁴ NTC=Nebraska Total Care (Centene's Medicaid plan)

Compliance Trends:

- Quarter 1 (Jan 1-March 31) 2025: Baseline
- Humana: will have completed its national exit from the commercial market at the end of 2024.

Outreach Efforts⁵

	Aetna* (Attempt/Response)	Avera Health Plans* (Attempt/Response)	BCBS* (Attempt/Response)
Meetings	0	0	N/A
Electronic Outreach	2/0	1/0	N/A
Cumulative Totals (2025)	2	1	N/A

	Centene* (Attempt/Response)	Cigna* (Attempt/Response)	Good Samaritan* (Attempt/Response)
Meetings	1	0	1
Electronic Outreach	2/2	3/3	3/2
Cumulative Totals (2025)	5	6	6

	Health Alliance Midwest* (Attempt/Response)	Medica* (Attempt/Response)	Molina* (Attempt/Response)
Meetings	0	N/A	2
Electronic Outreach	1/1	N/A	3/3
Cumulative Totals (2025)	2	N/A	8

	Mutual of Omaha* (Attempt/Response)	Oscar* (Attempt/Response)	United Healthcare* (Attempt/Response)
Meetings	0	0	0
Electronic Outreach	2/0	1/0	1/1
Cumulative Totals (2025)	2	1	2

*Note: *Numbers represent unique attempts made during Quarter.*

⁵ This section details the outreach strategies employed during the quarter (e.g., emails, letters, meetings, etc.).

State of Nebraska Health Information Exchange ~~Payer-Health Insurance Plan~~ Data Standards Policy

Policy: State of Nebraska Health Information Exchange Payer-Health Insurance Plan Data Standards Policy		Accountability: Systems Support Manager / CyncHealth Staff / Vendors:	
Effective Date: 12/21/2021	Review Date: 12/15/2022 12/12/2024	Referenced Procedures:	
Intended Audience: All CyncHealth staff and vendors working on behalf of CyncHealth. CyncHealth Participants.			
Approval: 12/21/2021 -12/15/2022			
Title: Health Information Technology Board			

STATEMENT

In accordance with the standards set forth under the Health Insurance Portability and Accountability Act (“HIPAA”) as well as federal and state statutory and regulatory requirements (hereafter referred to as “Regulatory Requirements”), CyncHealth is committed to ensuring the confidentiality, integrity, and availability of protected health information and electronic protected health information (PHI/ePHI), as well as any sensitive and confidential data it creates, receives, maintains, and/or transmits. For the purposes of this policy, PHI, ePHI and sensitive and confidential data shall be referred to herein as “Covered Information.”

DEFINITIONS

- **Electronic Protected Health Information (ePHI):** Information that is “individually identifiable health information” and is created, received, maintained, or transmitted in any electronic form or medium.
- **Health Information Technology Board (HIT Board):** A seventeen-member board of healthcare professionals appointed by the Governor of Nebraska to oversee the State of Nebraska Health Information Exchange and the State of Nebraska Prescription Drug Monitoring Program (PDMP).
- **Protected Health Information (PHI):** Information that is “individually identifiable health information” and is created, received, maintained, or transmitted in any form or medium.

- **Secure File Transfer Protocol (SFTP):** A network protocol that provides file access, file transfer, and file management over a reliable data stream.
- **Social Care Data:** Data involving conditions in the places where people live, learn, work, and play that affect a wide range of health and quality of life risks and outcomes. Social Care Data should include factors like socioeconomic status, education, neighborhood and physical environment, employment, and social support networks, as well as access to health care. Data sharing of Social Care Data must include all available information including, but not limited to, date of referral, service type (food, housing, utility, transportation, etc.), agency that met that referral, and the outcome of referral with both closed-loop and directory type data.
- **X12 835 and 837 Files:** Electronic file formats widely used for electronic submission of health data claims and payment information.
- **X12 835 Sets:** Electronic transaction sets that can be used to make a payment, send an Explanation of Benefits (EOB) remittance advice, or make a payment and send an EOB remittance advice only from a health insurer to a health care provider either directly or via a financial institution.
- **X12 837 Sets:** Electronic transaction sets that can be used to submit health care claim billing information, encounter information, or both, from providers of health care services to ~~payors~~health insurance plans, either directly or via intermediary billers and claims clearinghouses. It can also be used to transmit health care claims and billing payment information between ~~payors~~health insurance plans with different payment responsibilities where coordination of benefits is required or between ~~payors~~health insurance plans and regulatory agencies to monitor the rendering, billing, and/or payment of health care services within a specific healthcare/insurance industry segment.

REFERENCES

- **Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”)**
- **Neb. Rev. Stat. § 81-6,125, Population Health Information Act**
- **Medical Assistance Act 68-901 to 68-9,111**
- **CyncHealth Transmission Protection Policy**

PURPOSE

The purpose of this policy is to document the responsibility of ~~payors~~health insurance plans ~~defined as~~ in Neb. Rev. Stat. § ~~81-6,125~~ and Medicaid Managed Care Organizations- to share data with the designated health information exchange as determined by this policy adopted by the Health Information Technology Board. The objective is to provide clarity of definitions and responsibilities surrounding the provided Payor~~health insurance plan~~ data and data interoperability.

SCOPE AND APPLICABILITY

This policy covers the sharing of health information data ~~within the~~with the Nebraska Health Information Exchange that is overseen by the State of Nebraska HIT Board as required by the Population Health Information Act.

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ROLES AND RESPONSIBILITIES

The State of Nebraska HIT Board with the support of CyncHealth Chief Legal Counsel will be responsible for the enforcement, interpretation, management, review, and education of this policy. Likewise, CyncHealth staff will be responsible for acknowledgement and adherence to this policy.

POLICY

All ~~payors health insurance plans~~ named in Neb. Rev. Stat. § 81-6,125 shall report to CyncHealth 835 and 837 files in accordance with this Policy. In addition to 835 and 837 files, Nebraska Medicaid Managed Care Organizations shall share Social Care Data, as defined by this Policy, with the designated statewide HIE, CyncHealth.

~~Payer Health Insurance Plan~~ Data Format

All health insurance plans defined in Neb. Rev. Stat. §81-6,125 shall share X12 835 and 837 files with CyncHealth. CyncHealth will ensure all ~~Payer Health insurance plan~~ data received is in X12 835 and 837 file formatting for the purposes of data interoperability, quality, and matching.

All Nebraska Medicaid Managed Care Organizations shall report Social Care Data ~~in a manner mutually agreed upon by CyncHealth according to the Social Determinants of Health Data Submission Specifications~~ and applicable health insurance plan to support data interoperability, care coordination, quality, and matching.

~~Payer Health Insurance Plan~~ Data Flow

~~Payers Health insurance plans~~ will be required to submit data through an encrypted connection into CyncHealth's internal cloud environment. ~~Payer Health insurance plan~~ data, including both the roster files and claims files, will be securely ~~stored-transmitted in-into the~~ SFTP Server ~~and managed according to the CyncHealth Transmission Protection Policy¹ and data sharing agreements.~~ ~~Access to the server and any connections to CyncHealth's health information exchange vendor will be fully encrypted using firewalls and industry standard best practices.~~

COMPLIANCE

CyncHealth staff will be required to comply with all information security policies and procedures as a condition of employment or contract with CyncHealth. CyncHealth staff who fail to abide by the requirements outlined in the State of Nebraska Health Information Exchange ~~Payer Health Insurance Plan~~ Data Standards Policy will be subject to disciplinary action up to and including termination of employment or contract.

ANNUAL REVIEW

Date:	Reviewed By:	Comments/Updates:
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¹ Available upon request (support@cynchealth.org)

12/15/22	HIT Board	Amended - Updates to include MCO social care data, requirements for payor shared files.

State of Nebraska Health Information Technology Board PDMP Data Requests Policy

Policy: State of Nebraska Health Information Technology Board PDMP Data Requests Policy		Accountability: Systems Support Manager / CyncHealth Staff / Vendors:	
Effective Date: 11/18/2021	Review Date: <u>12/12/2024</u>	Referenced Procedures:	
Intended Audience: All CyncHealth staff and vendors working on behalf of CyncHealth.			
Approval: 11/18/2021		Approval:	
Title: HIT Board		Title:	

STATEMENT

In accordance with the standards set forth under the Health Insurance Portability and Accountability Act (“HIPAA”) as well as federal and state statutory and regulatory requirements (hereafter referred to as “Regulatory Requirements”), CyncHealth is committed to ensuring the confidentiality, integrity, and availability of protected health information and electronic protected health information (PHI/ePHI), as well as any sensitive and confidential data it creates, receives, maintains, and/or transmits. For the purposes of this policy, PHI, ePHI and sensitive and confidential data shall be referred to herein as “Covered Information.”

DEFINITIONS

- **Electronic Protected Health Information (ePHI):** Information that is “individually identifiable health information” and is created, received, maintained, or transmitted in any electronic form or medium.
- **Health Information Technology Board (HIT Board):** A seventeen-member board of healthcare professionals appointed by the Governor of Nebraska to oversee the State of Nebraska Health Information Exchange and the State of Nebraska Prescription Drug Monitoring Program (PDMP).
- **Prescription Drug Monitoring Program (PDMP):** The system in Nebraska established as a standalone medication query platform that collects all prescriptions dispensed from pharmacies and other dispensers, established through Neb. Rev. Stat. § 71-2454.
- **Protected Health Information (PHI):** Information that is “individually identifiable health information” and is created, received, maintained, or transmitted in any form or medium.

REFERENCES

- [Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 \(“HIPAA”\)](#)
- [Neb. Rev. Stat. § 71-2454](#)
- [Neb. Rev. Stat. § 81-6,128](#)

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PURPOSE

The purpose of this policy is to document the State of Nebraska HIT Board’s responsibilities surrounding Nebraska PDMP data requests. The objective is to provide clarity surrounding definitions and the relationships between the State of Nebraska HIT Board and CyncHealth. This policy seeks to establish parameters in compliance with Regulatory Requirements related to limited and proper disclosure of PDMP data by ensuring CyncHealth staff are aware of the requirements and expectations surrounding the State of Nebraska HIT Board and PDMP data requests.

SCOPE AND APPLICABILITY

This policy covers the Nebraska PDMP data requests that are overseen by the State of Nebraska HIT Board.

ROLES AND RESPONSIBILITIES

The State of Nebraska HIT Board with the support of CyncHealth Chief Legal Counsel will be responsible for the enforcement, interpretation, management, review, and education of this policy. Likewise, CyncHealth staff will be responsible for acknowledgement and adherence to this policy.

POLICY

Types of Requests

~~Requests for PDMP data may be made through a completed Collaborative Project Data Request Form (“Form”). Requestors will be required to work closely with the Nebraska Healthcare Collaborative to ensure the request is valid according to federal and state regulations as well as in alignment with CyncHealth values and missions.~~

Collaborative Project Data Request

~~Requests for PDMP data may be made through a completed Collaborative Project Data Request Form (“Form”). Requestors will be required to work closely with the Nebraska Healthcare Collaborative to ensure the request is valid according to federal and state regulations as well as in alignment with CyncHealth values and missions.~~

Patient Quality Improvement or Research Initiatives

The HIT Board may authorize release of PDMP data for patient quality improvement or research initiatives per Neb. Rev. Stat. § 71-2454 Sec. 10. ~~Additional policies or procedures specific to use cases will be developed as authorized by the HIT Board.~~

Quality Measures

The HIT Board may authorize release of PDMP data for quality measures as approved or regulated by state or federal agencies per Neb. Rev. Stat. § 71-2454 Sec.10.

Statistical, Public Policy, or Educational

The HIT Board may authorize release of PDMP data for statistical, public policy, or educational purposes after removing information which identifies or could reasonably be used to identify a patient, prescriber, or dispenser per Neb. Rev. Stat. § 71-2454 Sec. 9.

Requests for PDMP Data

CyncHealth will verify the type of request before beginning any data request process. Requests for both HIE and PDMP data require approval after the CyncHealth Collaborative has already approved the scope and details of the request. Requests for PDMP only data can be submitted directly to the HIT Board for consideration without needing approval through the CyncHealth Collaborative.

CyncHealth will only process a request for PDMP data after all the following conditions have been met in full:

- i. disclosure of Covered Information is authorized in accordance with CyncHealth privacy and security policies;
- ii. disclosure of Covered Information is authorized in accordance with Regulatory Requirements;
- iii. the identity of the requestor has been validated in accordance with the relevant policies and regulations;
- iv. a properly completed Form has been submitted;

~~v. approval after work with the CyncHealth Collaborative regarding the scope and details of the request.~~

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PDMP Data Request Evaluation

The HIT Board will be responsible for ensuring CyncHealth is meeting technological standards for reporting of data for the PDMP, including the types of data to be collected and reported and the frequency of data collection and disbursement.

Should the Nebraska Healthcare Collaborative determine a request for PDMP data satisfies all data governance processes and considerations, the HIT Board will consider the proposal and will be responsible for evaluating these requests in accordance with the statutes outlined in Neb. Rev. Stat. § 71-2454. CyncHealth will ensure that the HIT Board has access to the necessary data request submissions so it can accurately certify if the data is accessed, used, or disclosed in accordance with the privacy and security protections set forth in the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder.

PDMP Recommendations

~~CyncHealth will ensure that the HIT Board has a reliable vehicle to provide suggestions and recommendations for changes and enhancements to the Nebraska PDMP.~~

COMPLIANCE

CyncHealth staff will be required to comply with all information security policies and procedures as a condition of employment or contract with CyncHealth. CyncHealth staff who fail to abide by the requirements outlined in the HIT Board PDMP Data Requests Policy and Procedures will be subject to disciplinary action up to and including termination of employment or contract.

ANNUAL REVIEW

Date:	Reviewed By:	Comments/Updates:
Date of implementations:		Date of updates:

State of Nebraska Prescription Drug Monitoring Program Workflow Integration Policy

Policy: State of Nebraska Prescription Drug Monitoring Program Workflow Integration		
Effective Date: 03/25/2023	Review Date:	Referenced Procedures:
Intended Audience: All Dispensers and Pharmacies required to report to the PDMP; Providers and Health Care Entities who will be implementing and utilizing the system		
Approval: 03/25/2023 Title: Health Information Technology Board		

STATEMENT

In accordance with the standards set forth under the Health Insurance Portability and Accountability Act (“HIPAA”) as well as federal and state statutory and regulatory requirements (hereafter referred to as “Regulatory Requirements”), CyncHealth is committed to ensuring the confidentiality, integrity, and availability of protected health information and electronic protected health information (PHI/ePHI), as well as any sensitive and confidential data it creates, receives, maintains, and/or transmits. For the purposes of this policy, PHI, ePHI and sensitive and confidential data shall be referred to herein as “Covered Information.”

DEFINITIONS

- **Electronic Protected Health Information (ePHI):** Information that is “individually identifiable health information” and is created, received, maintained, or transmitted in any electronic form or medium.
- **Health Information Technology Board (HIT Board):** A seventeen-member board of healthcare professionals appointed by the Governor of Nebraska to oversee the State of Nebraska Health Information Exchange and the State of Nebraska Prescription Drug Monitoring Program (PDMP).
- **Interoperability:** The ability to exchange health information between electronic systems.
- **Prescription Drug Monitoring Program (PDMP):** The system in Nebraska established as a standalone medication query platform that collects all prescriptions dispensed from pharmacies and other dispensers, established through Neb. Rev. Stat. § 71-2454.
- **Protected Health Information (PHI):** Information that is “individually identifiable health information” and is created, received, maintained, or transmitted in any form or medium.
- **Workflow Integration:** The process of connecting the PDMP data to Electronic Health Record systems or pharmacy management software with the PDMP for purposes of administrative efficiency, patient safety, and reduction of provider burden.

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REFERENCES

- [Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 \(“HIPAA”\)](#)
- [Neb. Rev. Stat. § 71-2454](#)
- [Neb. Rev. Stat. § 71-2455](#)
- [Medicare Access and CHIP Reauthorization Act of 2015, Pub. L. No. 114-10, Title I, § 101](#)
- [SUPPORT for Patients and Communities Act, § 5042 \(Medicaid PARTNERSHIP Act\)](#)
- [471 Neb. Admin. Code § 18-009](#)

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PURPOSE

The purpose of this policy is to document the State of Nebraska HIT Board’s responsibilities surrounding Nebraska PDMP data use. The objective is to provide clarity surrounding definitions and the relationships between the State of Nebraska HIT Board and CyncHealth. This policy seeks to establish parameters in compliance with regulatory requirements related to enabling [providers and](#) facilities to implement and maintain interoperability with the PDMP.

SCOPE AND APPLICABILITY

This policy covers the Nebraska PDMP data use and data sharing overseen by the State of Nebraska HIT Board.

ROLES AND RESPONSIBILITIES

The State of Nebraska HIT Board, with the support of both CyncHealth’s Vice President – PDMP & Pharmacy Programs and Chief Legal Counsel, will be responsible for the enforcement, interpretation, management, review, and education of this policy. Likewise, CyncHealth staff will be responsible for acknowledgement and adherence to this policy.

POLICY

Nebraska Revised Statute 71-2454 (6) – (7)(f) allows for PDMP data sharing if the entity receiving the data has privacy protections at least as restrictive as those set forth in this section and has implemented and maintains the minimum safeguards required by subsection (6) of this section, the statewide health information exchange described in [Nebraska Revised Statute section 71-2455, 71-2455](#), in accordance with policies adopted by the Health Information Technology Board and in collaboration with the department, may release the prescription drug information and any other data collected pursuant to this section to:

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(f) Electronic health record systems or pharmacy-dispensing software systems for the purpose of integrating prescription drug information into a patient’s medical record.

This policy is to authorize CyncHealth to facilitate workflow integration with healthcare facilities to connect to the PDMP through interoperability methods, which aligns with state and federal policies and regulations in addressing the opioid crisis. These include, but are not limited to, CMS Quality Payment Program Merit-based Incentive Payment System, SUPPORT Act Section 5042, and Nebraska Medicaid

regulations Title 471 NAC 18. This policy would enable healthcare providers to meet regulatory requirements and reduce the burden of clinicians in meeting these requirements. CyncHealth may work with healthcare facilities which have met all statutory, regulatory, and technical interoperability requirements of CyncHealth to implement PDMP workflow integration. ~~through methods established by CyncHealth and in compliance with Nebraska statute to uphold the safeguards of the PDMP.~~

CyncHealth will perform integrations using data transmission standards set by RxCheck, the PDMP data-sharing hub funded by the Bureau of Justice Assistance and utilized by the Nebraska PDMP. Currently accepted standards include:

- NCPDP Script v10.6
- NCPDP Script 2017071
- NIEM
- PMIX
- FHIR r4
- Additional formats as made available

CyncHealth shall provide a report to the Health Information Technology Board of existing and recently implemented integrations with healthcare providers and facilities.

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COMPLIANCE

CyncHealth staff will be required to comply with all information security policies and procedures as a condition of employment or contract with CyncHealth. CyncHealth staff who fail to abide by the requirements outlined in the HIT Board PDMP Data Requests Policy and Procedures will be subject to disciplinary action up to and including termination of employment or contract.

ANNUAL REVIEW

Date:	Reviewed By:	Comments/Updates: