

**North Dakota
Brain Injury Advisory Council
Membership Meeting
HIT, Inc. Office
2640 Sunset Drive
Mandan, ND**

**November 15, 2019
Meeting Minutes**

Call to Order and Welcome: Chairperson Nan Kennelly called the meeting to order at 1:02 PM, CT, and welcomed ND Brain Injury Advisory Council (BIAC) members and the public. Members introduced themselves.

NDBIAC Voting Members Present: Nan Kennelly, Open, Chair; Lisa Anderson, Family, Vice Chair; Representative Dick Anderson, ND House of Representatives Appointment; David Biberdorf, General; Shannon Cook, Survivor; Jean Herauf, Open; Austyn Kloehn, Service Provider; and Sarah Ring, Open.

NDBIAC Non-voting Members Present: Krista Fremming, NDDHS Medicaid; Denise Harvey, ND Protection and Advocacy Project; Michelle Woodcock, NDDPI; and Nicole Berman, DHS Behavioral Health.

Public Attendance: Rebecca Quinn, ND Brain Injury Network; Dan Gulya, ND Protection and Advocacy Project.

Facilitation: Greg Gallagher, Program and Research Director, The Consensus Council, Inc., served as facilitator.

Declaration of Quorum. With a simple majority of qualified members present, Chairperson Kennelly declared the presence of a quorum.

Approval of Agenda. Chairperson Kennelly reviewed the November 15, 2019, draft meeting agenda and recommended the following changes: (1) remove the “Social/Rec Contract” item; (2) retitle the “Update from Dakota Medical Foundation” to “Update on Brain Injury Relevant Legislation”; (3) review and approve the adoption of the May 17, 2019, BIAC meeting minutes; and (4) review and approve the adoption of the August 16, 2019, BIAC meeting minutes. Chairperson Kennelly declared the adoption of the meeting agenda ([Appendix A](#)) with the consent of the members.

Approval of Minutes. *May 17, 2019, Meeting Minutes.* Chairperson Kennelly placed before the members consideration of the May 17, 2019, BIAC meeting minutes for approval, previously tabled for subsequent review and adoption. Nicole Berman reported that administrative code and the Attorney General’s published guidance regarding open meetings requires the BIAC to publicly post draft meeting minutes prior to any future scheduled meeting, whereupon the BIAC may proceed to review and adopt the minutes at its discretion. Members noted that Lynne Ostren provided comments on family stakeholder involvement and Bruce Murry provided information on HB 1099 during the May BIAC meeting within the regular meeting agenda, requiring no further clarification within the minutes.

Chairperson Kennelly entertained a motion to approve the May 17, 2019, BIAC meeting minutes as presented. Jean Herauf made and Shannon Cook seconded a motion to adopt the May 17, 2019, BIAC meeting minutes as presented. The motion passed unanimously. Chairperson Kennelly declared the minutes approved.

August 16, 2019, Meeting Minutes. Chairperson Kennelly entertained a motion to approve the August 16, 2019, BIAC meeting minutes as presented. Lisa Anderson made and Sarah Ring seconded a motion to approve the minutes as presented. The motion passed unanimously. Chairperson Kennelly declared the minutes approved.

Update from Subcommittees

Update from Continuum of Care Subcommittee. No report from the Continuum of Care Subcommittee was presented.

Austyn Kloehn requested that the BIAC establish a standing protocol to convene the Continuum of Care Subcommittee with the assistance of the Consensus Council, guiding the management of meeting dates, conference call arrangements, and the setting of agendas. Chairperson Kennelly supported the Consensus Council assuming primary responsibility to manage the convenings of the two established committees (i.e., the Continuum of Care Subcommittee and the Education and Awareness Subcommittee), including the possible management of an anticipated third subcommittee following its formation in the immediate future. Members agreed that each subcommittee would conduct at least one meeting between formal BIAC meetings.

Chairperson Kennelly recognized Rebecca Quinn who observed the need for the BIAC to assess the current role of the Education and Awareness Subcommittee within the mission of the BIAC. The role of the Subcommittee is unclear, sometimes providing a general awareness of events and sometimes supporting event planning within the ND Brain Injury Network (NDBIN). Members discussed how the Education and Awareness Subcommittee might advance brain injury awareness statewide and reach out to brain injury providers. Although the purposes of the BIAC and the NDBIN are distinct, there appears to exist some overlap between BIAC subcommittee activities and NDBIN activities. This apparent overlap requires clarification and resolution. There exists an evidenced need to increase the public's awareness of brain injuries and the supports that exist to aid individuals and their families. Since the BIAC is relatively young and establishing its proper advisory role, now would be an ideal time for the BIAC to select and develop key issues, with the NDBIN retaining its collaborative role as an invited member on both BIAC subcommittees. Ms. Quinn observed, as an example, that the Heart Association awarded \$5000 to the NDBIN to create a resource guide for statewide distribution. It would be beneficial if the NDBIN could float ideas and documents before the BIAC subcommittees as a means to validate and improve overall programming. The BIAC might provide general guidance how these partnerships might be structured and managed.

The BIAC bylaws empower the Chairperson to appoint such standing and temporary committees or task forces as may be necessary to carry out the duties and to facilitate the operation of the Council. Members infer the privilege of the Chairperson to extend invitations to outside partners, such as the NDBIN, to serve on a BIAC subcommittee to facilitate the Council's business. Members agreed that it would be proper for the NDBIN to remain as a contributing member of both the Continuum of Care Subcommittee and the Education and Awareness Subcommittee, since this relationship exists currently and the NDBIN is recognized as a contributing member of these

subcommittees. To formalize this understanding, Shannon Cook made and Sarah Ring seconded a motion to recognize the North Dakota Brain Injury Network as a participating member of both the Continuum of Care Subcommittee and the Education and Awareness Subcommittee within the Brain Injury Advisory Council. The motion passed unanimously. Chairperson Kennelly declared the adoption of the motion.

Update from Education and Awareness Subcommittee. Chairperson Kennelly reported that the Education and Awareness Subcommittee had not met since the last BIAC formal meeting.

A certified brain injury instruction meeting is scheduled on December 17-28, 2019, at the Ramada Inn, Fargo, open to the public, for qualified professionals seeking brain injury specialist status. A previous training session occurred in July 2019, resulting in the awarding of 38 certificates.

The Mind Matters Conference pre-session on Brain Injury Basics, a day-long brain injury basic certification, is scheduled for March 25, 2020, followed by the full Conference extending March 26-27, 2020. The Brain Injury Association of America offers the Brain Injury Basics training, costing \$125, which provides seven hours of training leading to a Basics Certification. Brain injury basics training offers good overall professional development for advocates, short of medical training. NDBIN will distribute background information for this training.

Chairperson Kennelly recognized Rebecca Quinn who reported the recent receipt of the Colorado REAP (Reduce, Educate, Accommodate, and Plan) Manual, adopted by ten regional states, which provides evidence-based practices to aid providers, schools, associations, and families. Julie Benz has developed a flier on classroom accommodations with the assistance of Michelle Woodcock (NDDPI). NDBIN produced substance use, mental health, and brain injury fliers for use in the ND Behavioral Health Conference, recently completed. NDBIN has assisted behavioral health providers regarding the proper screening of individuals with a brain injury. Currently, 208 individuals have participated in online training courses, receiving continuing education credits upon completion. The Plains Museum, Fargo, will sponsor an exhibit for Brain Injury Month, in March 2020. In January 2020, a clay-making mask in-service will be offered, as preparation for the March exhibit. Webinar Wednesdays, a partnership program with the Heart Association's Mission Lifeline Project, recently began and programs will be archived. Programs, which will run weekly at 1:00 PM on Wednesdays, will include, among other topics, tele-rehab, ND Assistive, brain injury fatigue, and others to come. NDBIN will distribute program fliers to BIAC members.

Update on Brain Injury Relevant Legislation. Chairperson Kennelly stated Pat Traynor, Dakota Medical Foundation, has reported that funding and implementation delays regarding the hyperbaric treatment program have subsequently impacted Mr. Traynor's availability to address the BIAC. Representative Anderson reported that funding has recently been secured and the program's implementation plan is now moving steadily forward. The Dakota Medical Foundation is seeking the assistance of an independent research organization to supervise the research and secure program's fidelity of implementation.

Representative Anderson encouraged the BIAC to begin the process of preparing legislative proposals that might be considered by the various interim legislative committees during the second half of 2020. Chairperson Kennelly raised the prospects of (1) establishing a third standing subcommittee to focus attention on legislative initiatives and (2) establishing a standing agenda item for all meetings concerning legislative action. Members agreed to establish a standing agenda item for all meetings; any resulting legislative proposals might then be referred to a BIAC

subcommittee, at the discretion of the Chairperson, for in-depth study and eventual referral to the ND Legislative Council, with the assistance of the BIAC's legislative representatives.

Update from Department of Health. No report from the Health Department was provided.

Update from Department of Human Services. Krista Fremming, Department of Human Services, reported that the state's Medicaid 1915(i) state plan amendments are being drafted following the completion of several statewide public hearings. Most feedback received was offered by providers. The state's final 1915(i) application will be submitted to the Centers for Medicare and Medicaid Services (CMS) and undergo an extensive review based on the application's various criteria. Following the completion of the application, it will be made available for a second round of public comments. The state plan will include certain brain injury provisions, including access to certain community-based services (e.g., housing, peer, and employment supports) to those individuals with a brain injury who are covered under Medicaid. Various assessments will be required to ascertain the level of functional impairment experienced by an individual, establishing eligibility to receive funded services. North Dakota appears to be the first state to include brain injury in its 1915(i) state plan. The state is seeking CMS approval of the state plan for eventual implementation by July 1, 2020. The CMS may allow the state to edit elements of its plan on a section-by-section basis to expedite the approval process. The state is looking to establish eligibility on diagnosis-based criteria without further consideration of other factors, such as juvenile justice involvement.

Under the HCBS Waiver--different from the 1915(i) Waiver--there exists amended guidelines for the management of agency foster care, submitted to CMS for its approval. This amendment would provide level of care not previously provided in the state. In April 2020, DHS Aging Services will seek to implement level of care screening for brain injury.

The DHS Behavioral Health Division is drafting administrative rules to guide a peer support certification process addressing substance use, mental health, and brain injury, reimbursable under Medicaid. The peer training provides for accommodations. Nicole Berman stated that the current public comment period allows the BIAC collectively or its members individually to submit comments for consideration, up to its closing date of November 22, 2019.

Blue Cross/Blue Shield Cognitive Therapy Policy. Chairperson Kennelly inquired if the BIAC might consider adopting a position opposing the recently issued cognitive therapy policy released by Blue Cross/Blue Shield of North Dakota (BCBS). This new policy requires a formal assessment by a neuropsychologist to authorize any cognitive therapy services provided, for instance, to an individual with a brain injury resulting from an injury or stroke and evidencing attention or memory issues. Such an eligibility rule is problematic within any rural state, especially for outlying communities across North Dakota, where there exists a notably limited number of neuropsychologists. Members inquired if the BIAC might seek and receive the advice of a certified neuropsychologist(s) who might advocate for and technically validate the BIAC's position. This policy tightens and restricts coding options that negatively impact payment. Members referenced the BIAC bylaws that support the BIAC adopting this issue for further study, including interviewing several neuropsychologists to advance the development of a policy statement to take before the BCBS. Chairperson Kennelly requested that this issue be moved forward to the next BIAC meeting, under the leadership of BIAC members, David Biberdorf and Sarah Ring. Rebecca Quinn volunteered to forward literature on this issue from the National Association of State Brain Injury Administrators.

Jean Herauf made and Lisa Anderson seconded a motion to adopt, as a standing agenda item at future BIAC meetings, the development of an platform statement opposing the Blue Cross/Blue Shield policy on the requisite use of neuropsychologist assessments for the receipt of covered cognitive therapy. The motion passed unanimously. Chairperson Kennelly declared the passage of the motion.

Determining 2020 BIAC Meeting Dates. Members agreed to establish the following schedule of quarterly BIAC meeting dates, aligned to the third Friday of selected months, including

- Friday, February 21, 2020, from 1:00 PM – 4:00 PM, CT;
- Friday, May 15, 2020, from 1:00 PM – 4:00 PM, CT;
- Friday, August 21, 2020, from 1:00 PM – 4:00 PM, CT; and
- Friday, November 20, 2020, from 1:00 PM – 4:00 PM, CT.

All meeting will be located at the HIT, Inc., Offices; 2640 Sunset Drive; Mandan, ND. The Chairperson reserves the right to call special meetings of all members, as may be required. Subcommittee meetings will be scheduled and managed by the respective subcommittee members with the assistance of the Consensus Council.

Member Updates. Denise Harvey reported that the Supported Decision-Making Form is now available from the Protection and Advocacy Project's website.

Members requested that an updated list of current BIAC member contact information, including term dates, be distributed to all members. Membership rolls and term dates are available on the Department of Human Services' website: <https://www.governor.nd.gov/boards/BoardDetails.aspx?boardid=161>. The Governor's Office is currently reviewing and updating some members' term extensions.

Public Comment. Rebecca Quinn reported that the National Association of State Head Injury Administrators' Conference is scheduled for September 2020 in Minneapolis, MN. Members should consider attending the conference, given its close location, to learn how state systems work. The Minnesota Brain Injury Alliance Conference is scheduled in April 2020.

Lisa Anderson questioned the standing of the Social/Rec Contract, specifically which parties can access the funding. Nicole Berman stated that the legislation earmarks the funding to go to entities that provide the social/rec services, not to specific individual recipients. Examples of approved providers include Sanford, Dakota, and the Center for Independent Living.

Shannon Cook observed that individuals with brain injury who are involved in the court system oftentimes lapse as repeat offenders within the state's legal system. There exists a need for individuals with brain injury within the legal system to access program support similar to the Free Through Recovery Program. Ms. Cook inquired if the BIAC might adopt this issue for study and resolution for broader practice statewide. This issue represents a clear example of a peer support service opportunity. Members expressed an interest to continue discussions on this issue.

Adjournment. Having completed the meeting's agenda and hearing no further comments from the NDBIAC members, Chairperson Kennelly invited a motion to adjourn. Jean Herauf made and Lisa Anderson seconded a motion to adjourn. The motion passed unanimously. Chairperson Kennelly declared the meeting adjourned at 3:03 PM, CT.

Respectfully submitted,

Greg Gallagher
Program and Research Director
Consensus Council, Inc.

Appendix A

Brain Injury Advisory Council Meeting

**Friday, November 15, 2019
1:00 PM – 4:00 PM., CT**

**HIT, Inc
2640 Sunset Drive
Mandan, ND**

AGENDA



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1:00 PM – 4:00 PM., CT

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AGENDA

- Call meeting to order
- Roll call
- Approve agenda
- Update from subcommittees
 - o Continuum of care
 - o Education and awareness
- Update brain injury relevant legislation
- Update from Dept. of Health
- Update from Dept. of Human Services
- BCBS Cog Policy
- Social/Rec Contract
- Update from Dakota Medical Foundation
- Member updates
- Public comment