

FINAL REPORT OF RECOMMENDATIONS AND FINDINGS

By The Technical Review Committee for the
Review of the Application for Licensure
by the Nebraska Oriental Medicine Association

To The Nebraska State Board of Health,
The Director, Department of HHS Regulation and Licensure,
The Legislature

May 5, 1999

INTRODUCTION

The Credentialing Review Program is a review process advisory to the Legislature which is designed to assess the need for state regulation of health professionals. The credentialing review statute requires that review bodies assess the need for credentialing proposals by examining whether such proposals are in the public interest.

The law directs those health occupations and professions seeking credentialing or a change in scope of practice to submit an application for review to the Health and Human Services Department of Regulation and Licensure. The Director of this agency will then appoint an appropriate technical review committee to review the application and make recommendations regarding whether or not the application in question should be approved. These recommendations are made in accordance with four statutory criteria contained in Section 71-6221 of the Nebraska Revised Statutes. These criteria focus the attention of committee members on the public health, safety, and welfare.

The recommendations of technical review committees take the form of written reports that are submitted to the State Board of Health and the Director of the agency along with any other materials requested by these review bodies. These two review bodies formulate their own independent reports on credentialing proposals. All reports that are generated by the program are submitted to the Legislature to assist state senators in their review of proposed legislation pertinent to the credentialing of health care professions.

ORIENTAL MEDICINE TECHNICAL REVIEW
COMMITTEE MEMBERS
(1998)

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SUMMARY OF THE APPLICANTS' PROPOSAL

The Nebraska Oriental Medicine Association, Inc. submitted a proposal to license oriental medicine practitioners to provide acupuncture services in Nebraska. Under the terms of this proposal, to be eligible to be licensed to provide these services, a candidate would have to graduate from an accredited oriental medicine program and pass the national examination in oriental medicine. Once licensed, a practitioner would be allowed to use acupuncture to facilitate recovery from injury or illness, provide rehabilitative or continuing care following injury or illness, and to prevent physical injury or illness.

Applicants would be approved who have completed a clean needle technique course and who have either current, active certification in acupuncture by the National Certification Commission for Acupuncture and Oriental Medicine, or who hold a current license in acupuncture, in good standing, issued by another state.

The proposal makes no provision for waiver of national board certification for individuals who are licensed in another state.

The proposal was amended during the fourth meeting of the committee by mutual agreement between the committee members and the applicant group as follows:

- 1) The Chinese herbology dimension of acupuncture care was removed from the proposal.
- 2) An "informed consent" concept was added to the proposal. The "informed consent" would require that each client, at the time of their first visit to an acupuncturist, be presented with a document and consent form that informs them that acupuncturists do not diagnose or treat the same kinds of conditions or illnesses as western medical doctors. If the client has not been seen by a medical doctor within a time frame, which would be specified in statute, they would be advised to do so as soon as possible. The signed informed consent documents of each patient would be kept on file in the office of their acupuncturist.

SUMMARY OF COMMITTEE CONCLUSIONS AND RECOMMENDATIONS

It was moved and seconded that the proposal satisfies the first criterion which asks the committee to determine whether or not there is harm or great potential for harm to the public health and welfare inherent in the current practice situation of the profession in question. The committee members voted five to one with one abstention that the proposal satisfies this criterion.

It was moved and seconded that the proposal satisfies the second criterion, which asks the committee members to determine whether or not the proposal as amended would in and of itself create a new source of harm to the public health and welfare. The committee members voted four to two with one abstention that the proposal satisfies this criterion.

It was moved and seconded that the proposal satisfies the third criterion, which asks the committee members to determine whether or not the proposal as amended would benefit the public health and welfare. The committee members voted six to zero with one abstention that the proposal satisfies this criterion.

It was moved and seconded that the proposal satisfies the fourth criterion which asks the committee members whether or not the current proposal as amended would be the most cost-effective means of addressing the harm to the public or the problems with the scope of practice identified by the applicant group in their application. The committee members voted four to three that the proposal satisfies this criterion.

By virtue of these four votes the committee members decided to recommend in favor of the proposal.

DISCUSSION OF ISSUES RAISED BY THE PROPOSAL

IS THERE HARM INHERENT IN THE CURRENT SITUATION WHEREIN ORIENTAL MEDICINE PRACTITIONERS ARE NOT ALLOWED TO PRACTICE IN NEBRASKA?

Proponent Comments

Applicant group representatives stated that if the current situation of acupuncture services continues, Nebraskans will continue to experience restrictions on their access to acupuncture services because of a ruling by the Nebraska Attorney General that only medical doctors may provide acupuncture services. By law this prevents Nebraskans from accessing the services of acupuncture practitioners who are the most qualified to provide these services. Only oriental acupuncture practitioners receive a three-year training program and pass national board examinations specific to acupuncture per se. (The Applicants' Proposal, Page 7, Question #22, and the Minutes of the Second Meeting of the Committee, January 20, 1999)

The applicants stated that there are potential risks to the public health associated with the use of unsterilized needles and lack of adequate training in applying needle acupuncture. These risks include the spread of infectious diseases and accidental injury involving the puncture of an organ such as a lung. The applicants stated that members of their profession are required to take a course in clean needle technique that was developed jointly with the Center for Disease Control, and which requires that every acupuncturist pass a written examination and provide a practical demonstration of pertinent skills in the area of clean needle technique. The successful completion of these requirements is a prerequisite for national board certification. (The Applicants' Proposal, Page 7, Question #22)

One applicant group representative stated that over the last three decades, public awareness of, and demand for, acupuncture services has grown steadily nationwide. This representative informed the committee members that approximately one million Americans seek acupuncture treatment each year according to the National Institutes of Health Conference held in 1997. This representative also informed the committee members that there are more than 200 insurance companies that reimburse for acupuncture services with more companies coming on line every year. Insurance companies are providing reimbursement for acupuncture in part because science has demonstrated the therapeutic efficacy of acupuncture, and in part because of the ever-increasing consumer demand for acupuncture. This representative indicated that Nebraska needs to join the other thirty-six states and jurisdictions in licensing acupuncturists to ensure this safe and effective type of health care is available to the public. (The Transcript of the Public Hearing on the Proposal, February 24, 1999, Pages 28, 29, 30, 33, and 34)

One applicant group representative stated that physicians and chiropractors are trained to perform a limited scope acupuncture that serves only as an adjunct to their regular medical practice. The program description for the Certification Program for Professionals that Nebraska chiropractors states that the program is “not intended as a full program in Traditional Chinese Medicine (TCM), but rather focuses on the principle, theory, scientific findings and modern and ancient practical application of acupuncture as it may be utilized as an adjunct by physicians in an existing professional practice.” (A document submitted by the applicant group to the technical committee members to improve the draft report)

Opponent Comments

Opponent testifiers stated that the current situation of acupuncture services in Nebraska does not impose undue restrictions on access to these services. Testifiers from the Nebraska Chiropractic Association informed the committee members that acupuncture is no longer exclusively part of the practice of medicine and surgery, and that between twenty and twenty-five percent of chiropractors in Nebraska are qualified to provide acupuncture services, and are providing these services. According to a survey conducted by the Nebraska Chiropractic Association, there are about forty chiropractors that currently provide acupuncture as part of their treatment regimen. Chiropractic representatives also indicated that those chiropractic practitioners that are doing acupuncture are widely distributed geographically in Nebraska. The chiropractic representatives stated that this evidence indicates that there are sufficient numbers of practitioners providing acupuncture services in Nebraska, and that therefore, Nebraskans already have good access to these services. (The Transcript of the Public Hearing, February 24, 1999, Page 68, 69, 70, 85 and 86)

IS THERE POTENTIAL FOR SIGNIFICANT NEW HARM TO THE PUBLIC HEALTH AND WELFARE INHERENT IN THE ORIENTAL MEDICINE PROPOSAL?

Opponent Comments

Opponent testifiers stated that the principal concern associated with the proposed new credentialing for oriental medicine practitioners is that these practitioners are not sufficiently well trained in western allopathic diagnostic procedures to be able to practice safely and effectively as independent practitioners. These testifiers noted that the proposal as currently worded would create independent practice for those oriental medicine practitioners who meet the standards for licensure defined in the proposal. According to the opponents, the training received under the terms of this proposal in the area of diagnostics does not fit the western scientific model, and raises concerns that these practitioners would not possess the knowledge or skill necessary to be able to diagnose a carcinoma or some other serious illness. One opponent testifier informed the committee members that he studied the curriculum of two accredited schools of acupuncture, and identified a total of only forty-five clock hours and only three credit hours of training pertinent to western diagnostic methods in their curriculum. (The Transcript of the Public Hearing, February 24, 1999, Pages 76, 77, 99, and 100)

One opponent testifier commented that licensed health care practitioners are held accountable for every aspect of their care including their diagnoses, and expressed doubt that the applicant group would be able to successfully defend their diagnostic methods and skills if required to do so in a disciplinary action. This testifier added that passing the current applicant proposal would lower the standard for diagnostics in Nebraska. (The Transcript of the Public Hearing, February 24, 1999, Pages 109 and 118)

One opponent testifier stated that acupuncture produces the best results when it is combined with other treatment modalities. These testifiers went on to state that the current proposal calling for the licensing of the applicant group to do only acupuncture would not provide patients with the broad-based treatment regimen that they would receive from either chiropractors or medical doctors. (The Transcript of the Public Hearing, February 24, 1999, Pages 101 and 102)

Opponent testifiers expressed concern that the proposal does not clarify exactly what the practitioners in question would be licensed to provide. Opponents asked, would this license oriental medicine practitioners to provide the full range of services associated with oriental medicine including Chinese herbology? Or, would it only license these practitioners to do acupuncture? These testifiers then stated to the committee members, that if it is determined that there is a need for more regulation pertinent to the services of the applicant group, then this regulation should be limited to acupuncture. (The Transcript of the Public Hearing, February 24, 1999, Page 76 and 77)

Opponent testifiers informed the committee members that in oriental medicine physical manipulation (body work) is part of the treatment regimen. These testifiers stated that the current proposal does not clarify if “body work” would be part of acupuncture scope of practice, and if so, what the applicant groups’ qualifications would be to provide this type of service if it were. (The Transcript of the Public Hearing, February 24, 1999, Page 103)

Proponent Comments

Applicant group testifiers stated that there is no evidence from other states that have licensed acupuncturists to indicate that patients have not received appropriate diagnoses of their conditions by these practitioners, or that appropriate referrals have not been made. The applicants added that according to a 1992 survey of state licensing agencies in the area of acupuncture, the number of injuries attributed to the application of treatment by these practitioners is zero. (The Applicants’ Proposal, Page 13, Question #45)

The applicants stated that their profession uses what they call “pattern diagnosis” based on the concepts from Chinese medicine rather than from a “western” medical model. This method of diagnosis focuses on the extent to which a patient’s energy flow is in balance. The applicants stated that oriental medicine represents a holistic approach to health care, and does not compete with, but is a complement to, the western allopathic approach to health care. (The Minutes of the Second Meeting of the Committee, January 20, 1999)

The applicants stated that they are trained to do an assessment (evaluation), and to know whether or not the prospective client is appropriate for treatment by acupuncture. If the client in question is not, then a referral is made. Applicant testifiers indicated that they are trained to refer, and that they have sufficient understanding of the health care system to make an appropriate referral. One applicant testifier elaborated by stating that the standard master’s level training in acupuncture contains a series of rigorous sessions in such topics as OBGYN, respiratory care issues, neurology, cardiology, and stress, and the various symptoms associated with these topics. (The Transcript of the Public Hearing, February 24, 1999, Page 36)

One applicant testifier informed the committee members that the current accreditation standards for schools of acupuncture require 360 hours of science, and that this background enables graduates of these schools to discuss diseases and treatment regimens of other health professions. This educational standard provides graduates with at least the basics of western physiology and symptomology. This training also enables acupuncturists to make appropriate referrals. (The Transcript of the Public Hearing, February 24, 1999, Pages 42, 43)

Pertinent to opponent criticisms of their ability to diagnose serious health problems of their patients, the applicants responded by stating that they are not physicians and have no intention of attempting to diagnose the kinds of health problems that physicians diagnose. The applicants stated that they want their patients to see allopathic physicians for the kinds of health problems they are good at treating, and to see their acupuncturist for the kinds of health problems they are good at treating. (The Minutes of the Second Meeting of the Committee, January 20, 1999)

The applicants responded to concerns about their ability to refer by stating that the most typical type of referral that acupuncturists make is to a family physician. (The Minutes of the Second Meeting of the Committee, January 20, 1999)

According to the applicants the greatest potential for harm to the public stems from the improper use of acupuncture needles, and the applicants indicated that their training more so than that of any other practitioners gives them greater ability to provide services safely and effectively. (The Applicants' Proposal, Pages 7 and 10, Questions #22 and 29)

WOULD THE ORIENTAL MEDICINE PROPOSAL SIGNIFICANTLY IMPROVE ACCESS TO THE SERVICES IN QUESTION AND WOULD IT BE THE MOST COST-EFFECTIVE METHOD OF DEALING WITH THE PROBLEMS IDENTIFIED?

Proponent Comments

The applicants stated that the proposal would create a new regulated health profession in Nebraska, namely, Licensed Acupuncturist. Doing this would significantly improve access to acupuncture services in Nebraska, and would provide the public with greater freedom of choice of practitioner in the area of acupuncture services. The applicants stated that their information pertinent to other states that have passed similar proposals indicates that once the proposal is passed in our state, the number of acupuncturists in Nebraska will increase dramatically, and that this in turn will provide for even greater freedom of choice, and also lower the cost of services. (The Applicants' Proposal, Page 15, Question #56)

The applicants stated that Wisconsin, Minnesota, and Colorado showed dramatic increases in the number of available practitioners after these states passed licensure laws for acupuncturists. The applicants indicated that this illustrates the ability of proposals such as theirs to benefit the public by increasing the number of available practitioners. The applicants also stated that increasing the number of practitioners would make it more financially feasible (The Minutes of the Second Meeting of the Committee, January 20, 1999)

The committee members discussed alternative ways by which acupuncturists could be credentialed and regulated, and these include:

- 1) Licensed as independent practitioners dealing directly with patients
- 2) Licensed as secondary providers under referral from physicians
- 3) Licensed practicing collaboratively with other providers
- 4) Licensed excluding specific conditions
- 5) Licensed to do acupuncture, nutritional counseling and Chinese herbology
- 6) Licensed to do acupuncture and nutritional counseling

The applicants stated that there is ample precedent from other states to demonstrate the viability of options one and three for credentialing acupuncturists. However, the applicants stated that the second option under which they could only see patients with a physician referral is too restrictive, and in states where this method of regulation has been applied, the profession has failed to grow or prosper. The applicants stated that there is an increasing trend, in these states, to repeal such provisions. The idea of defining practice in such a way as to specifically prohibit acupuncturists from treating persons who have such

symptoms as respiratory distress, excessive weight loss, unexplained bleeding, or possible fractures or dislocations has been done in Minnesota and Washington (The Transcript of The Public Hearing, February 24, 1999, Page 33 and 37, and 38; and The Minutes of the Second Meeting of the Committee, January 20, 1999)

The applicants stated that there are several ways of addressing concerns about their ability to diagnose. These include the idea of some kind of cooperative practice involving both physicians and acupuncturists, and the idea of "informed consent" whereby the acupuncturist would issue a disclaimer to the effect that acupuncturists do not provide allopathic care or diagnosis, and that patients should see their family physician if they seek this kind of care.

The applicants indicated that in Oregon and Massachusetts as well as in China collaborative practices have been established. (The Minutes of the Second Meeting of the Committee, January 20, 1999)

One applicant testifier informed the committee that there is ample precedent for licensing these practitioners only to provide acupuncture services, and excluding the herbology component. (The Transcript of the Public Hearing, February 24, 1999, Page 58)

The committee members discussed alternative ways by which acupuncture credentialing could be administered. These include:

- 1) Direct administration by the Department
- 2) Administered by their own board of examiners
- 3) Administered under the auspices of the medical board

The applicant group indicated that they intended to provide for direct administration until there are sufficient numbers of acupuncturists in Nebraska to support a board of examiners of their own. (The Minutes of the Second Meeting of the Committee, January 20, 1999)

Opponent Comments

The opponents of the proposal stated that the proposal would not significantly impact the provision of acupuncture services in our state because there are already many licensed health care practitioners who are already providing these services. These testifiers informed the committee members that there are already about forty chiropractors in our state that have completed the necessary training and are providing acupuncture services. These testifiers stated that every year more chiropractors are getting the additional training to provide these services. (The Transcript of the Public Hearing, February 24, 1999, Page 73)

Opponent testifiers representing chiropractic stated that their profession is the best alternative to the applicants' proposal, and that chiropractic education and training represents a philosophy of care that is the closest to oriental medicine that exists in western medical care today. These testifiers indicated that with chiropractic one gets the best of both worlds—western science and alternative approaches to care. (The Transcript of the Public Hearing, February 24, 1999, Pages 106, 107, and 108)

Opponent testifiers informed the committee members that there are many different kinds of acupuncture other than needle acupuncture and Chinese acupuncture that are the mainstays of oriental medicine practitioners. These include electrical acupuncture, Korean acupuncture, and Japanese acupuncture. (The Transcript of the Public Hearing, February 24, 1999, Page 125)

One testifier for the Nebraska Medical Association stated that his association's position on acupuncture is that the practice of acupuncture should be regulated within the profession of medicine and within the profession of chiropractic. However, should lawmakers conclude that it is necessary to credential an additional group (the applicant group) to provide acupuncture services, this testifier stated that the services of this group should only be provided either by referral from a physician, or by some other mechanism that assures that the patient has been seen by a physician. (The Transcript of the Public Hearing, February 24, 1999, Page 134, 135, and 136)

Opponents to the proposal also commented on the ideas generated during the review pertinent to collaborative (integrated) practice clinics comprising oriental medicine and western medical practitioners. A representative of the chiropractors expressed concerns about integrated clinics, stating that because of concerns about billing fraud, the Federal government is investigating integrated clinics where chiropractors and physicians assistants practice and ride under the license of a medical doctor to receive larger reimbursement payments from the government. This testifier stated that collaborative practice could be accomplished between independent practitioners without creating integrated clinics. (The Transcript of the Public Hearing, February 24, 1999, Pages 79 and 80)

COMMITTEE CONCLUSIONS AND RECOMMENDATIONS

The committee members met on March 31, 1999 to formulate their recommendations on the proposal. All information in this section was generated at this fourth meeting.

The committee members took action on each of the four criteria of the credentialing review statute pertinent to scope of practice reviews.

The first criterion states,

ABSENCE OF A SEPARATE REGULATED PROFESSION CREATES A SITUATION OF HARM OR DANGER TO THE HEALTH, SAFETY, OR WELFARE OF THE PUBLIC, AND THE POTENTIAL FOR THE HARM IS EASILY RECOGNIZABLE AND NOT REMOTE OR DEPENDENT UPON TENUOUS ARGUMENT.

Before voting on this criterion, the committee members reviewed the first criterion and discussed how it relates to the applicants' proposal.

Committee member Leticia Barajas-Pallares commented that the members of the applicant group are the only practitioners that offer the full range of acupuncture care, and that the chiropractors and physicians provide a limited versus a full program of acupuncture and do so only as an adjunct to their practices. This committee member stated that for acupuncturists these services are the principal care provided to patients.

Committee member Leslie Neuhaus stated that people can access acupuncture services in Nebraska under the current situation, and that therefore there is no need for the applicants' proposal.

Committee member Barajas-Pallares moved and committee member Turner seconded that the proposal as satisfies the first criterion. Voting aye were Jeanetta, Scribner, Turner, and Nasir, and Barajas-Pallares. Voting nay was Neuhaus. Chairperson Vaughan abstained from voting. The motion passed which means that the committee members determined that the proposal satisfies criterion one.

The committee members then took action on the second criterion.

The second criterion states,

CREATION OF A SEPARATE REGULATED PROFESSION WOULD NOT CREATE A SIGNIFICANT NEW DANGER TO THE HEALTH, SAFETY OR WELFARE OF THE PUBLIC.

Before voting on this criterion, the committee members reviewed the criterion and discussed how it relates to the applicants' proposal.

During the discussion the committee members and the applicant group reached agreement that the proposal should be amended to exclude Chinese herbology from the proposal. The committee members and the applicant group agreed that excluding Chinese herbology would not significantly weaken the proposal, and that acupuncture is effective by itself. This amendment was approved by consensus before any voting occurred on the proposal. The provisions of the proposal pertinent to nutritional support were not affected by this amendment.

The committee members then discussed the issue of diagnostics as it relates to the applicants' proposal. Committee member Barajas-Pallares commented that acupuncturists use natural methods to correct blockages of energy flow in the human body, and that they do not attempt to make a western allopathic medical diagnosis or to treat the kinds of illnesses and conditions that western medical doctors treat.

Before the committee members voted on any of the issues under review, the applicant group and the committee members reached an agreement that the proposal be amended to state that at the time of their first visit to their acupuncturist, each acupuncture patient must sign a written "informed consent" document that would inform them that acupuncture's do not diagnose or treat the same kinds of conditions and illnesses that western medical doctors treat, and that if they have not seen a medical doctor within a time frame that would be specified in statute, they would be advised to do so as soon as possible. The signed informed consent documents of each patient would be kept on file in the office of their acupuncturist.

The description of the discussion on informed consent and other second criterion will now be presented.

Committee member Scribner commented that she was impressed with the education that acupuncturists receive in both western science and eastern systems of medical knowledge. Committee member Laeth Nasir commented that he had doubts about the quality of the diagnostic training acupuncturists receive, and indicated that he regarded their diagnostic training as "rudimentary." This committee member expressed the concern that if the proposal were to pass that it would lower the standard for diagnostic ability in our state. Pertinent to the idea of informed consent, committee member Nasir asked how "informed" would this informed consent be given the great variation in the quality of education and training from one acupuncture school to another? Committee member Barajas-Pallares responded to committee member Nasir's comment on informed consent by stating that the national exam is the instrument that the profession uses to ensure consistency and quality of service, and that the perception of lack of consistent quality within the profession is not an accurate one.

Shelden LeBron speaking for the applicant group responded by stating that acupuncture should not be held to a higher standard pertinent to diagnosis than for example the profession of massage, which is a licensed profession in Nebraska. Mr. LeBron added that there are many other "allied" health professionals credentialed by the state, which have no greater ability to diagnose than do acupuncturists.

Committee member Scribner stated that collaborative practice between acupuncturists and physicians could be a way to establish an approach to the provision of acupuncture services that ensures public safety and yet provides good access to the services of acupuncturists.

Shelden LeBron informed the committee members that no evidence of harm stemming from the services of acupuncturists has emerged from the thirty-three states that currently license acupuncturists. Mr. LeBron added that third-party payers do reimburse for the services of acupuncturists in these states. Committee member Nasir commented that the survey data upon which Mr. LeBron was basing his remarks is nearly a decade old and in need of updating.

Committee member Barajas-Pallares moved and committee member Turner seconded that the proposal as amended satisfies the second criterion. Voting aye were Jeanetta, Turner, Scribner, and Barajas-Pallares. Voting nay were Nasir, and Neuhaus. Chairperson Vaughan abstained from voting. The motion passed which means that the committee members determined that the proposal does satisfy the second criterion.

The committee members then took action on the third criterion.

The third criterion states,

CREATION OF A SEPARATE REGULATED PROFESSION WOULD
BENEFIT THE HEALTH, SAFETY, OR WELFARE OF THE PUBLIC.

Before voting on this criterion, the committee members reviewed the criterion and discussed how it relates to the applicants' proposal.

Committee member Turner commented that there is a need to create a regulatory process for this occupation because people will seek their services anyway.

Shelden LeBron commented that only acupuncturists provide the full range of acupuncture services, and that the proposal would give Nebraskans access to the services of these professionals for the first time, and would enable these services to grow.

Committee member Jeanetta moved and committee member Scribner seconded that the proposal as amended satisfies the third criterion. Voting aye were Jeanetta, Neuhaus, Scribner, Turner, Nasir, and Barajas-Pallares. There were no nay votes. Chairperson Vaughan abstained from voting. The motion passed which means that the committee members decided that the proposal satisfies the third criterion.

The committee members then took action on the fourth criterion.

The fourth criterion states,

THE PUBLIC CANNOT BE EFFECTIVELY PROTECTED BY OTHER
MEANS IN A MORE COST-EFFECTIVE MANNER.

Before voting on this criterion, the committee members reviewed the criterion and discussed how it relates to the applicants' proposal.

Shelden LeBron commented that the applicant group believes that there is no effective alternative to the proposal that would address the shortcomings of the current situation of acupuncture services in Nebraska other than the proposal to license acupuncturists. Mr. LeBron added that the status of chiropractic acupuncture has not yet been resolved by the Attorney General's office, and that currently only medical doctors have an undisputed right to provide acupuncture services.

Committee member Nasir stated that the proposal is not cost-effective for the public because of the great potential for loss of life stemming from the inability of acupuncturists to competently diagnose and refer. This committee member stated that bad outcomes will occur if the proposal is passed.

Committee member Barajas-Pallares responded to committee member Nasir by stating that the proposal as amended would encourage patients to receive a check up from a medical doctor, and that there is no more reason to be concerned about the protection of the health and safety of patients under the care of an acupuncturist than there is when a patient is under the care of a massage therapist, for example.

Committee member Jeanetta commented that people don't go to acupuncturists for the kind of care that they would get from portal of entry physicians, and that the applicants have never claimed to be positioning themselves to play such a role in the health care system.

Committee member Nasir commented that a patient could have an undiagnosed carcinoma, and an acupuncturist would have no way of diagnosing such a condition so as to make an appropriate referral. Committee member Jeanetta responded that this is why the applicant group amended their proposal to include the concept of informed consent.

Committee member Nasir then stated that the applicant group has not proven that their proposal is cost-effective. Shelden LeBron responded by stating that the applicant group has provided a study that was appended to the proposal that goes far toward proving the cost-effectiveness of their services. Mr. LeBron challenged those in attendance to identify a more cost-effective alternative to the problems identified than the applicants' proposal.

Committee member Barajas-Pallares moved and committee member Turner seconded that the proposal as amended satisfies the fourth criterion. Voting aye were Jeanetta, Scribner, Barajas-Pallares, and Vaughan. Voting nay were Neuhaus, Nasir, and Turner. The motion passed which

means that the committee members determined that the proposal satisfies the fourth criterion.

By these four votes on the four criteria the committee members recommended approval of the applicants' proposal as amended.

OVERVIEW OF COMMITTEE PROCEEDINGS

The committee members met for the first time on December 16, 1998 in Lincoln, in the Nebraska State Office Building. The committee members received an orientation regarding their duties and responsibilities under the Credentialing Review Program.

The committee members held their second meeting on January 20, 1999 in Lincoln, in the Nebraska State Office Building. The committee members thoroughly discussed the applicants' proposal, and generated questions and issues that they wanted discussed further at the next phase of the review process which is the public hearing.

The committee members met for their third meeting on February 24, 1999 in Lincoln, in the Nebraska State Office Building. This meeting was the public hearing on the proposal during which both proponents and opponents were given one and one-half hours to present testimony. There was also a rebuttal period after the formal presentations for testifiers to address comments made by other testifiers during the formal presentation period. A public comment period lasting ten days beyond the date of the public hearing was also provided for during which the committee members could receive additional comments in writing from interested parties.

The committee members met for their fourth meeting on March 31, 1999 in Lincoln, in the Nebraska State Office Building. The committee members formulated their recommendations on the proposal at this meeting by taking action on each of the four criteria of the credentialing review statute pertinent to new credentialing proposals.

The committee members met for their fifth meeting on May 5, 1999 by teleconference in Lincoln, in the Nebraska State Office Building. The committee members made corrections to the draft report of recommendations, and then, approved the corrected version of the report as the official document embodying the recommendations of the committee members on the proposal. The committee members then adjourned sine die.

