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July 14, 2023

Mr. Ron Briel, Program Manager
Credentialing Review Program
DHHS Credentialing Review
P.O. Box 94986
Lincoln, NE 68509-4986
VIA ELECTRONIC AND U.S. MAIL

RE: Credentialing Review Application for the Nebraska Hearing Society

Mr. Briel,

The Nebraska Hearing Society (NHS) is submitting this application to seek changes in the scope of practice for Hearing Instrument Specialists (HIS). NHS is dedicated to increasing the level of excellence of hearing healthcare through continuing education, professional review, and consumer protection.

The purpose of enhancing the authorized scope of practice for licensed Audiologists, Hearing Instrument Specialists, and Hearing Instrument Dispensers is to better serve hearing impaired patients throughout Nebraska. The proposed changes can be summarized as:

1. Allow Hearing Instrument Specialists to provide cerumen management.
2. Ensure that Hearing Instrument Specialists and Audiologists can order the dispensing of the newly created over the counter and prescription hearing aid categories following the August 2022 U.S. Food and Drug Administration final rule.
3. Provide a comprehensive description of what qualifies as "dispensing of hearing instruments".
4. Update filing and examination requirements as well as hearing assessment protocols.

The changes that the society would seek are through amendments to sections 38-511, 38-1501, 38-1502, 38-1504, 38-1505, 38-1506, 38-1508, 38-1510, 38-1511, and 38-1514 of Reissue Revised Statutes of Nebraska, and sections 38-121, 38-1509, 38-1512, and 38-1513 of Revised Statutes Cumulative Supplement.

I believe that the committee will find, as they review the application, that each of the six criterion outlined in the program manual are met. Hearing healthcare professionals are members of a distinct discipline. The Nebraska Hearing Society is proud to have assisted this field in the past with the development of a wide range of evidence-based procedures to better serve the community. With these statutory changes, we are eager to continue that progress.

We look forward to meeting with the Department of Health and Human Services and await your notification of the next steps in the process. As you review our application, please let me know about any questions you may have or if additional information is needed.

Sincerely,

FOR THE NEBRASKA HEARING SOCIETY

Joseph D. Kohout

Nebraska Credentialing Review for the Nebraska Hearing Society

Application Date: July 14, 2023

Submitted to Nebraska Department of Health and Human Services

Description of the Applicant Group and its Proposal

1. **Provide the following information for the applicant group(s):**

This application is submitted by the Nebraska Hearing Society on behalf of its members.

Nebraska Hearing Society

801 William Ave.

North Platte, NE 69101

Nebraskahearingsociety.org

International Hearing Society

33900 W. 8 Mile Road., Suite 101

Farmington, MI 48335

Ihsinfo.org

The Nebraska Hearing Society (NHS) is an affiliate of the International Hearing Society (IHS). NHS is comprised of Hearing Instrument Specialists, Board Certified Hearing Instrument Specialists, and Audiologists.

2. **Identify by title, address, telephone number, e-mail address, and website of any other groups, associations, or organizations in Nebraska whose membership consists of any of the following:**

   a. **members of the same occupation or profession as that of the applicant group;**

      Nebraska Speech-Language-Hearing Association

      8700 Executive Woods Dr., Suite 400

      Lincoln, NE 68512

      Nslha.org

   b. **members of the occupation dealt with in the application;**

      Nebraska Speech-Language-Hearing Association

      8700 Executive Woods Dr., Suite 400

      Lincoln, NE 68512

      Nslha.org

c. **employers of the occupation dealt with in the application;**

No groups of which we are aware.

d. **practitioners of the occupations similar to or working closely with members of the occupation dealt with in the application;**

Nebraska Speech-Language-Hearing Association

8700 Executive Woods Dr., Suite 400

Lincoln, NE 68512

Nslha.org

e. **educators or trainers of prospective members of the occupation dealt with in the application;**

No groups of which we are aware.

f. **citizens familiar with or utilizing the services of the occupation dealt with in the application (e.g., advocacy groups, patient rights groups, volunteer agencies for particular diseases or conditions, etc.); and**

Nebraska Commission for the Deaf and Hard of Hearing

4600 Valley Rd., Suite 420

Lincoln, NE 68510

https://ncdhh.nebraska.gov/

g. **any other group that would have an interest in the application.**

Nebraska Medical Association

1045 Lincoln Mall, Suite 200

Lincoln, NE 68508

Nebmed.org

Nebraska Speech-Language-Hearing Association

8700 Executive Woods Dr., Suite 400

Lincoln, NE 68512

Nslha.org

3. **If the profession is currently credentialed in Nebraska, provide the current scope of practice of this occupation as set forth in state statutes. If a change in this scope of practice is being requested, identify that change.**

Current Legislative Scope

Hearing instrument means any wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments, or accessories, including earmold, but excluding batteries and cords. *NE. Rev. Stat. 38-1504*

Practice of fitting hearing instruments means the measurement of human hearing by means of an audiometer or by other means approved by the board solely for the purpose of making selections, adaptations, or sale of hearing instruments. The term also includes the making of impressions for earmolds. A dispenser, at the request of a physician or a member of related professions, may make audiograms for the professional's use in consultation with the hard-of-hearing. *NE. Rev. Stat. 38-1505*

Sell, sale, or dispense means any transfer of title or of the right to use by lease, bailment, or any other contract, excluding (1) wholesale transactions with distributors or dispensers and (2) distribution of hearing instruments by nonprofit service organizations at no cost to the recipient for the hearing instrument. *NE. Rev. Stat. 38-1506*

The board shall consist of five professional members and one public member appointed pursuant to section 38-158. The members shall meet the requirements of sections 38-164 and 38-165. The professional members shall consist of three licensed hearing instrument specialists, one otolaryngologist, and one audiologist until one licensed hearing instrument specialist vacates his or her office or his or her term expires, whichever occurs first, at which time the professional members of the board shall consist of three licensed hearing instrument specialists, at least one of whom does not hold a license as an audiologist, one otolaryngologist, and one audiologist. At the expiration of the four-year terms of the members serving on December 1, 2008, successors shall be appointed for five-year terms. *NE. Rev. Stat. 38-1508*

Sale or fitting of hearing instruments; license required; exceptions.
(1) Except as otherwise provided in this section, no person shall engage in the sale of or practice of fitting hearing instruments or display a sign or in any other way advertise or represent himself or herself as a person who practices the fitting and sale or dispensing of hearing instruments unless he or she holds an unsuspended, unrevoked hearing instrument specialist license issued by the department as provided in the Hearing Instrument Specialists Practice Act. A hearing instrument specialist license shall confer upon the holder the right to select, fit, and sell hearing instruments. A person holding a license issued under the act prior to August 30, 2009, may continue to practice under such license until it expires under the terms of the license.
(2) A licensed audiologist who maintains a practice pursuant to (a) licensure as an audiologist, or (b) a privilege to practice audiology under the Audiology and Speech-Language Pathology Interstate Compact, in which hearing instruments are regularly dispensed, or who intends to maintain such a practice, shall be exempt from the requirement to be licensed as a hearing instrument specialist.
(3) Nothing in the act shall prohibit a corporation, partnership, limited liability company, trust, association, or other like organization maintaining an established business address from engaging in the business of selling or offering for sale hearing instruments at retail without a

license if it employs only properly licensed natural persons in the direct sale and fitting of such products.
(4) Nothing in the act shall prohibit the holder of a hearing instrument specialist license from the fitting and sale of wearable instruments or devices designed for or offered for the purpose of conservation or protection of hearing. *NE. Rev. Stat. 38-1509*

(1) The Hearing Instrument Specialists Practice Act is not intended to prevent any person from engaging in the practice of measuring human hearing for the purpose of selection of hearing instruments if such person or organization employing such person does not sell hearing instruments or the accessories thereto.
(2) The act shall not apply to a person who is a physician licensed to practice in this state, except that such physician shall not delegate the authority to fit and dispense hearing instruments unless the person to whom the authority is delegated is licensed as a hearing instrument specialist under the act. *NE. Rev. Stat. 38-1510*

License; examination; conditions.
(1) Any person may obtain a hearing instrument specialist license under the Hearing Instrument Specialists Practice Act by successfully passing a qualifying examination if the applicant:
(a) Is at least twenty-one years of age; and
(b) Has an education equivalent to a four-year course in an accredited high school.
(2) The qualifying examination shall consist of written and practical tests. The examination shall not be conducted in such a manner that college training is required in order to pass. Nothing in this examination shall imply that the applicant is required to possess the degree of medical competence normally expected of physicians.
(3) The department shall give examinations approved by the board. A minimum of two examinations shall be offered each calendar year. *NE. Rev. Stat. 18-1512*

Qualifying examination; contents; purpose.
The qualifying examination provided in section 38-1512 shall be designed to demonstrate the applicant's adequate technical qualifications by:
(1) Tests of knowledge in the following areas as they pertain to the fitting and sale of hearing instruments:
(a) Basic physics of sound;
(b) The anatomy and physiology of the ear; and
(c) The function of hearing instruments; and
(2) Practical tests of proficiency in the following techniques as they pertain to the fitting of hearing instruments:
(a) Pure tone audiometry, including air conduction testing and bone conduction testing;
(b) Live voice or recorded voice speech audiometry;
(c) Masking when indicated;
(d) Recording and evaluation of audiograms and speech audiometry to determine proper selection and adaptation of a hearing instrument; and
(e) Taking earmold impressions. *NE. Rev. Stat. 38-1514*

Practices; credential required.

(1) No individual shall engage in the following practices unless such individual has obtained a credential under the Uniform Credentialing Act:
(a) Acupuncture;
(b) Advanced practice nursing;
(c) Alcohol and drug counseling;
(d) Asbestos abatement, inspection, project design, and training;
(e) Athletic training;
(f) Audiology;
(g) Speech-language pathology;
(h) Body art;
(i) Chiropractic;
(j) Cosmetology;
(k) Dentistry;
(l) Dental hygiene;
(m) Electrology;
(n) Emergency medical services;
(o) Esthetics;
(p) Funeral directing and embalming;
(q) Genetic counseling;
(r) Hearing instrument specialist;
(s) Lead-based paint abatement, inspection, project design, and training;
(t) Licensed practical nurse-certified until November 1, 2017;
(u) Massage therapy;
(v) Medical nutrition therapy;
(w) Medical radiography;
(x) Medicine and surgery;
(y) Mental health practice;
(z) Nail technology;
(aa) Nursing;
(bb) Nursing home administration;
(cc) Occupational therapy;
(dd) Optometry;
(ee) Osteopathy;
(ff) Perfusion;
(gg) Pharmacy;
(hh) Physical therapy;
(ii) Podiatry;
(jj) Psychology;
(kk) Radon detection, measurement, and mitigation;
(ll) Respiratory care;
(mm) Surgical assisting; and
(nn) Veterinary medicine and surgery.
(2) No individual shall hold himself or herself out as any of the following until such individual has obtained a credential under the Uniform Credentialing Act for that purpose:
(a) Registered environmental health specialist;
(b) Certified marriage and family therapist;

(c) Certified professional counselor;
(d) Social worker; or
(e) Dialysis patient care technician.
(3) No business shall operate for the provision of any of the following services unless such business has obtained a credential under the Uniform Credentialing Act:
(a) Body art;
(b) Cosmetology;
(c) Emergency medical services;
(d) Esthetics;
(e) Funeral directing and embalming;
(f) Massage therapy; or
(g) Nail technology. *NE. Rev. Stat. 38-121*

Legislative Changes Sought

38-1504 Amended to read: Hearing instrument means wearable amplification that is worn by a person with hearing loss and that has the ability to provide a fifteen-decibel gain or more at any given frequency, measured in a two-cubic-centimeter coupler.

38-1505 Amended to read: Dispensing of hearing instruments includes, but is not limited to, the following activities:
(1) Eliciting patient case histories, including medical history, otological history, pharmacological history, amplification history, and patient attitudes and expectations;
(2) Administering otoscopy for the purpose of identifying possible otological conditions, including, but not limited to, any of the conditions related to warnings found in the regulations of the federal Food and Drug Administration, 21 C.F.R. 801.420, as such regulations existed on January 1, 2023, which may indicate the need for a medical referral or which may have a bearing on needed rehabilitative measures, outcomes, or recommendations;
(3) Administering and interpreting tests of human hearing and middle ear function, including appropriate objective and subjective methodology and measures, such as tympanometry;
(4) Determining candidacy for hearing instruments, hearing-assistive devices, or referral for cochlear implant evaluation or other clinical, rehabilitative, or medical interventions;
(5) Selecting or fitting appropriate hearing instruments and assistive devices, including appropriate technology, identifying electroacoustic targets, programming parameters, and choosing special applications, as indicated;
(6) Assessing hearing instrument efficacy utilizing appropriate fitting verification methodology and equipment, which may include real ear measures or speech mapping, and electroacoustic analysis equipment;
(7) Assessing hearing instrument benefits through appropriate validation measures, which may include communication assessment questionnaires or speech audiometry;
(8)(a) Taking ear impressions or electronic scans by any method used for the purpose of creating earmolds and (b) preparing earmolds for hearing instruments, assistive devices, telecommunications applications, ear protection, and other related applications;
(9) Designing and modifying earmolds and auditory equipment requisite to meet a patient's needs;

(10) Providing counseling and aural rehabilitative services in the use and care of hearing instruments and assistive devices and for effectively utilizing communication coping strategies and other approaches to foster optimal patient rehabilitation;
(11) Providing tinnitus management;
(12) Providing supervision and inservice training of those entering the dispensing profession;
(13) Provide post-fitting care and services and hearing instrument care and repair services; or
(14) All other acts of hearing assessment pertaining to hearing testing or the selling, renting, leasing, and delivery of hearing instruments.

38-1506 Amended to read: Hearing instrument specialist means a person who engages in the practice of dispensing of hearing instruments. Medical liaison means an otolaryngologist or a licensed physician if no otolaryngologist is available with whom a cooperative arrangement for consultation is established by a hearing instrument specialist. Providing tinnitus management means the assessment of tinnitus, recommendation and selection of tinnitus management devices, therapy, and counseling in accordance with section 22 of this act provided to a patient who exhibits symptoms of tinnitus during an evaluation of hearing loss conducted for the purpose of determining the appropriateness of hearing instruments or tinnitus devices and includes administering and interpreting tests of human hearing and middle ear function, including appropriate objective and subjective methodology and measures, such as tympanometry.

38-1508 Amended to read: The board shall consist of five professional members and one public member appointed pursuant to section 38-158. The members shall meet the requirements of sections 38-164 and 38-165. The professional members shall consist of three licensed hearing instrument specialists, at least one of whom does not hold a license as an audiologist, one otolaryngologist, and one audiologist. At the expiration of the four-year terms of the members serving on December 1, 2008, successors shall be appointed for five-year terms.

38-1509 Amended to read:
(1)(a) Except as otherwise provided in this section, it shall be unlawful for any person to engage in the practice of dispensing of hearing instruments or display a sign or in any other way advertise or represent oneself as a person who practices dispensing of hearing instruments unless such person holds an unsuspended, unrevoked hearing instrument specialist license issued by the department as provided in the Hearing Instrument Specialists Practice Act. A person represents oneself to be a hearing instrument specialist if the person holds out to the public that the person engages in the practice of dispensing of hearing instruments, by any means, or by any service or function performed, directly or indirectly, or by using the term audioprosthologist, hearing center, hearing instrument center, hearing instrument office, hearing instrument specialist, hearing office, or any variation or synonym which expresses, employs, or implies these terms or functions. (b) A hearing instrument specialist license shall confer upon the holder the right to engage in the scope of practice of dispensing of hearing instruments.
(2) A licensed audiologist shall be exempt from the requirement to be licensed as a hearing instrument specialist if the audiologist maintains a practice in which hearing instruments are regularly dispensed, or intends to maintain such a practice, pursuant to:(a) Licensure as an

audiologist; or (b) A privilege to practice audiology under the Audiology and Speech-Language Pathology Interstate Compact.
(3) A hearing instrument specialist or audiologist may order the use of devices pursuant to 21 C.F.R. 801.109, as such regulation existed on January 1, 2023.
(4)(a) Nothing in the Hearing Instrument Specialists Practice Act shall prohibit a corporation, partnership, limited liability company, trust, association, or other like organization maintaining an established business address from engaging in the business of selling or offering for sale hearing instruments at retail without a license if it employs only properly licensed natural persons in the direct sale and fitting of such products. (b) Each such organization shall file annually with the department, on a form provided by the department, a list of the licensed hearing instrument specialists employed by the organization and a statement, on a form provided by the department, that the organization agrees to comply with the rules and regulations adopted and promulgated pursuant to section 38-126.

38-1510 Amended to read:
(1) The Hearing Instrument Specialists Practice Act is not intended to prevent any person from engaging in the practice of measuring human hearing for the purpose of selection of hearing instruments if such person or organization employing such person does not sell hearing instruments or the accessories thereto.
(2) The Hearing Instrument Specialists Practice Act does not apply to a person who is a physician licensed to practice in this state, except that such physician shall not delegate the authority to fit and dispense hearing instruments unless the person to whom the authority is delegated is licensed as a hearing instrument specialist under the act.
(3) The Hearing Instrument Specialists Practice Act does not change the scope of practice of a licensed audiologist.
Sec. 7 (As expressed in AM828 to LB593)
(1) Prior to engaging in cerumen management, a licensed hearing instrument specialist shall provide the board with evidence of (a) completion of an approved cerumen management course, (b) professional liability insurance, and (c) an arrangement with a medical liaison. The licensee shall annually thereafter provide evidence to the board of professional liability insurance and an arrangement with a medical liaison.
(2) Prior to engaging in cerumen management, a licensed hearing instrument specialist shall have an arrangement with a medical liaison. If a licensee engaged in routine cerumen management discovers any trauma, including, but not limited to, continuous uncontrolled bleeding, lacerations, or other traumatic injuries, the licensee shall, as soon as practicable, refer the patient to the medical liaison.
(3)(a) Prior to entering into an arrangement with a medical liaison, a licensed hearing instrument specialist shall complete a cerumen management course approved by the board. In order to be approved by the board, the course shall be approved by the International Hearing Society or another organization approved by the board and shall: (i) Consist of at least six hours of a participant practicing removing cerumen from an ear canal model using a variety of safe techniques with at least two hours of focus on infection control; (ii) Result in a certificate of completion and attestation of competence; and (iii) Provide the board with evidence of such completion and competence. (b) The board may, only after consultation with the Board of Medicine and Surgery, adopt rules and regulations as provided in section 38-126 to provide requirements for the initial cerumen management course.

(4) A licensed hearing instrument specialist engaged in cerumen management shall comply with the following requirements: (a) The indications for cerumen management for a licensed hearing instrument specialist shall include: (i) Enabling audiometric testing; (ii) Making ear impressions; (iii) Fitting ear protection or prosthetic devices; and (iv) Monitoring continuous use of hearing aids; (b) The licensed hearing instrument specialist shall refer a patient to the medical liaison, an otolaryngologist, or a licensed physician for medical consultation or medical intervention if the patient exhibits any of the following contraindications to cerumen removal: (i) An age younger than eighteen years of age; (ii) A perforated tympanic membrane; (iii) A history of pain, active drainage, or bleeding from the ear; (iv) Evidence of congenital or traumatic deformity of the ear; (v) Ear surgery within the last six months; (vi) Tympanostomy tubes, such that irrigation should not be used; (vii) A bleeding disorder; (viii) Actual or suspected foreign body in the ear; (ix) Stenosis or bony exostosis of the ear canal; (x) Cerumen located medial to the cartilaginous external auditory canal;(xi) A tympanic membrane that the licensed hearing instrument specialist is unable to see; or (xii) Any other contraindication to cerumen removal that requires medical consultation or medical intervention; (c) The licensed hearing instrument specialist shall perform cerumen management using the customary removal techniques that are commensurate with the licensee's training and experience; (d) If the patient, while undergoing cerumen management that did not present contraindications, complains of significant pain, exhibits uncontrolled bleeding or a laceration of the external auditory canal, or notices the acute onset of dizziness or vertigo or sudden hearing loss, the licensed hearing instrument specialist shall immediately stop the procedure and refer the patient to the medical liaison, an otolaryngologist, or a licensed physician; (e) The licensed hearing instrument specialist shall maintain the following proper infection control practices: (i) Universal health precautions; (ii) Decontamination; (iii) Cleaning, disinfection, and sterilization of multiple use equipment; and (iv) Universal precautions for prevention and the transmission of human immunodeficiency virus, hepatitis B virus, and other bloodborne pathogens, as defined by occupational safety and health standards promulgated pursuant to 29 C.F.R. 1910, as such regulations existed on January 1, 2023; (f) The licensed hearing instrument specialist who performs cerumen management shall maintain a case history for every patient and informed consent signed by the patient as part of the patient's records; (g) The licensed hearing instrument specialist shall carry appropriate professional liability insurance before engaging in cerumen management; and (h) The licensed hearing instrument specialist is prohibited from requiring patients to sign any form that eliminates liability if the patient is harmed.

38-1511 Amended to read:

(1) A licensed hearing instrument specialist shall enter into a written contract for each sale of a hearing instrument which states the terms of the sale.

(2) A licensee shall, at the time of delivery of the hearing instrument, provide the patient with a receipt containing the signature, regular business address, and license number of the licensee; the brand, model, manufacturer or manufacturer's identification code, and serial number of the hearing instrument; and the amount charged for the hearing instrument. The receipt shall also specify whether the hearing instrument is new, used, or rebuilt, as provided in 21 C.F.R. 801.420, as such regulation existed on January 1, 2023; the length of time and other terms of the guarantee; and by whom the hearing instrument is guaranteed.

(3) No hearing instrument may be sold to any person unless both the packaging containing the hearing instrument and the itemized receipt are in compliance with all applicable laws and regulations.
(4) Upon delivery, the licensed hearing instrument specialist shall confirm the physical and operational performance of the hearing instrument. If a patient purchases a hearing instrument from a licensee outside of the licensee's regular place of business and the regular place of business is beyond a reasonable distance, as determined by the board, the licensee shall provide the patient the address of an affiliate location with which the licensee is associated that is within a reasonable distance, at which a licensed hearing instrument specialist or audiologist is available for fitting services.
(5) Any seller offering for sale or selling a hearing instrument in this state or to a resident of this state shall make available in this state an in person fitting of the hearing instrument by a licensed hearing instrument specialist in this state prior to the sale.
Sec. 27.
(1) A licensed hearing instrument specialist shall keep and maintain in the licensee's office or place of business the following records: (a) Results of tests and other records as they pertain to hearing assessments conducted by the licensee and the dispensing of hearing instruments by the licensee; (b) A copy of the written contract and, if executed, signed medical evaluation waiver; and (c) Copies of such other records as the department, with the recommendation of the board, reasonably requires.
(2) Such records shall be kept and maintained by the licensee for a period of seven years.
Sec. 28. A licensed hearing instrument specialist who is certified by the National Board for Certification in Hearing Instrument Sciences or has an advanced credential recognized or offered by the International Hearing Society may work for a company or organization as a trainer and provide specialized training in the practical application of hearing instrument sciences.

38-1512 Amended to read:
(1) Any person may obtain a hearing instrument specialist license under the Hearing Instrument Specialists Practice Act by successfully passing a qualifying examination pursuant to section 38-1514 if the applicant provides verification acceptable to the department, upon recommendation of the board, that such person: (a) Is at least twenty-one years of age; and (b) Has an education equivalent to a four-year course in an accredited high school; and (c)(i) Has completed the minimum number of practicum hours prescribed by the board; (ii) Has a two-year degree in hearing instrument sciences, or an equivalent as determined by the board, from an accredited institution approved by the board; (iii) Has a master's or doctoral degree in audiology from an accredited institution approved by the board; (iv) Has held a current, unsuspended, and unrevoked license to dispense hearing instruments from another jurisdiction for at least twelve of the last eighteen months prior to taking the examination; (v) Is certified by the National Board for Certification in Hearing Instrument Sciences at the time of taking the examination; or (vi) Holds an advanced credential offered by the International Hearing Society at the time of taking the examination.
(2) The department, with the recommendation of the board, may determine whether completion of a licensure program from outside of the United States qualifies a person to take the examination in this state.

(3) The department, upon recommendation of the board, may waive either or both components of the examination pursuant to section 38-1514 for licensure as a hearing instrument specialist if the person has passed the same examination as provided in section 6(2) of this act or a substantially equivalent examination as determined by the board.
(4) The department, with the recommendation of the board, shall determine whether a person has met the requirements to be eligible to take the examination.

38-1514 Amended to read:
(1) The examination required by section 38-1512 for licensure as a hearing instrument specialist shall be comprised of two separate components: (a) A practical examination approved by the board that requires the examinee to demonstrate competence in dispensing of hearing instruments, which may be an examination developed and maintained by the International Hearing Society; and (b) A written or computer-based, psychometrically valid, competency examination approved by the board that tests the examinee for knowledge fundamental to the dispensing of hearing instruments, which may be an examination developed and maintained by the International Hearing Society.
(2)(a) If an examinee fails more than one portion of the practical examination, the examinee shall retake the entire practical examination upon payment of the examination fee. (b) If an examinee fails only one portion of the practical examination, the examinee may retake that portion of the examination without payment of a fee. (c) If an examinee fails the jurisprudence examination or competency examination, the examinee shall retake the entire examination upon payment of the examination fee. (d) If an examinee fails either the practical or competency component of the examination and fails two subsequent reexaminations, the examinee shall be disqualified from retaking the examination a fourth time until the examinee meets with the board, presents an acceptable written training plan to the board for passing the components of the examination, and successfully completes that plan.
Sec. 17 (1) A licensed hearing instrument specialist shall not engage in dispensing of hearing instruments with respect to a patient without first having conducted a face-to-face hearing assessment for the patient. A hearing assessment conducted in accordance with this subsection shall be valid for six months. Such hearing assessment shall include at least the following procedures, and any additional or modified procedures appropriate to technological developments as determined by the board: (a) Completion of a patient history questionnaire;
(b) Otoscopic examination; (c) Testing to determine the type and degree of hearing loss which includes pure-tone air conduction testing at two hundred fifty hertz, five hundred hertz, one thousand hertz, two thousand hertz, four thousand hertz, and eight thousand hertz and bone conduction testing at five hundred hertz, one thousand hertz, two thousand hertz, and four thousand hertz; (d) Effective masking when indicated; (e) Appropriate testing to determine speech reception thresholds, word recognition scores, most comfortable listening levels, uncomfortable loudness levels, frequency-specific loudness discomfort levels, ability to understand speech in noise, and the selection of the best fitting arrangement for maximum hearing instrument benefit when indicated; and (f) Other speech tests commonly used to assess human hearing acuity.
(2) The hearing assessment required pursuant to subsection (1) of this section may also include tympanometry and acoustic reflex testing.

(3) Each component of a hearing instrument shall be adapted to the needs of the patient. A licensed hearing instrument specialist shall conduct a final fitting to ensure physical fit and operational comfort of the hearing instrument and shall perform a hearing test in an environment with ambient noise sound levels of less than fifty-five A-weighted decibels.

Sec. 18 A licensed hearing instrument specialist shall demonstrate the benefit of a hearing instrument fitting by using objective measures, such as aided and unaided sound field testing, real-ear measurements, speech mapping, or electroacoustic analysis, or any other method approved by the board.

Sec. 19 A licensed hearing instrument specialist shall determine a patient's benefit with the hearing instrument fitting using validation measures, such as speech audiometry and validated communication assessment questionnaires, or any other method approved by the board.

Sec. 20 (1) A licensed hearing instrument specialist shall use the following equipment as part of any hearing testing conducted for the purpose of dispensing of hearing instruments:(a) An audiometer that has been calibrated within the twelve months preceding the test and that meets the specifications set forth under this section; and (b) A speech audiometer or a master hearing instrument in order to perform speech tests as required in subdivision (1)(e) of section 17 of this act.

(2) A licensed hearing instrument specialist shall provide for the calibration of the equipment utilized for hearing assessments required under section 17 of this act and in the dispensing of hearing instruments at least annually in conformance with current standards of the American National Standards Institute or such other quality control standards established by the board. A licensee shall ensure that audiometric equipment has been evaluated electrically and acoustically annually, that the equipment has been adjusted or repaired if necessary, and that conformity with such standards was determined at that time. A licensee shall maintain calibration records for ten years and shall make the records available for inspection by the department at any time. A licensee shall also use routine procedures for the daily inspection of audiometric equipment, or prior to use if used less often than on a daily basis, to generally determine that the equipment is in normal working order.

(3) A licensed hearing instrument specialist shall provide the following care of the equipment used in the licensee's practice of dispensing of hearing instruments: (a) Hearing instruments, assistive listening devices, and electronic equipment must be maintained according to the manufacturer's specifications; (b) Instrumental technology must be maintained in proper working order and be properly calibrated according to accepted standards; and (c) Proper infection control and sanitation procedures must be utilized.

Sec. 21. (1) Prior to performing cerumen removal, a licensed hearing instrument specialist shall have an arrangement with a medical liaison. If a licensee engaged in routine cerumen removal discovers any trauma, including, but not limited to, continuous uncontrolled bleeding, lacerations, or other traumatic injuries, the licensee shall, as soon as practically possible, refer the patient to the medical liaison.

(2) Prior to entering into an arrangement with a medical liaison, a licensed hearing instrument specialist shall obtain the training, knowledge, and skills necessary to perform cerumen management, including: (a) Principles of cerumen management, including the anatomy of the ear canal and the eardrum and classification of cerumen; (b) Use of instruments; (c) Techniques for cerumen removal; (d) Recognition of complications;14

(e) Recognition of contraindications; and (f) Sanitation and safety procedures.

(3) The licensee shall maintain documentation evidencing the satisfactory completion of the training.
(4) A licensee may refer a patient to a medical liaison if the patient exhibits contraindications to cerumen removal requiring medical consultation or medical intervention.
(5) A licensee shall carry appropriate professional liability insurance before performing cerumen removal.
(6) A licensee shall perform cerumen management using the customary removal techniques that are commensurate with the licensee's training and experience.
Sec. 22. Prior to providing tinnitus management, a licensed hearing instrument specialist shall obtain the training, knowledge, and skills necessary to perform tinnitus management in accordance with federal regulations, if any, and rules and regulations adopted and promulgated under the Uniform Credentialing Act, if any.
Sec. 23. A licensed hearing instrument specialist shall advise a prospective hearing instrument user to consult promptly with an otolaryngologist, or a licensed physician if no otolaryngologist is available, before dispensing a hearing instrument if the licensee determines, through inquiry, actual observation, or review of any other available information concerning the prospective user, that the prospective user has any of the conditions related to warnings found in the regulations of the federal Food and Drug Administration, 21 C.F.R. 801.420, as such regulations existed on January 1, 2023.
Sec. 24. It is a condition of licensure under the Hearing Instrument Specialists Practice Act that a licensed hearing instrument specialist comply with the rules of the federal Food and Drug Administration governing the fitting and sales of hearing instruments as prescribed by 21 C.F.R. 801.420 and 801.421, as such regulations existed on January 1, 2023.
Sec. 25. A purchaser of a hearing instrument shall not be required to obtain a medical evaluation for the repurchase of a hearing instrument once a medical evaluation has been obtained for certain otologic conditions that are permanent and would be reidentified at each hearing assessment. Such conditions shall include, but not be limited to, the following: (1) Visible congenital or traumatic deformity of the ear; (2) Unilateral or asymmetric hearing loss, assuming no change in thresholds; and (3) Audiometric air-bone gap equal to or greater than an average of fifteen decibels at five hundred hertz, one thousand hertz, and two thousand hertz.

Original sections 38-511, 38-1501, 38-1502, 38-1504,
31 38-1505, 38-1506, 38-1508, 38-1510, 38-1511, and 38-1514, Reissue Revised Statutes of Nebraska, and sections 38-121, 38-1509, 38-1512, and 38-1513, Revised Statutes Cumulative Supplement, 2022, are repealed.

4. **If the profession is not currently credentialed in Nebraska, describe the proposed credential and the proposed scope of practice, and / or the proposed functions and procedures of the group to be reviewed. This description of the desired scope of practice and the proposed credential constitute the core of the proposal. Also, please describe how the proposal would be administered. The application comprises the documentation and other materials that are provided in support of the proposal.**

Profession is currently credentialed in Nebraska. The changes sought would update the practice of the hearing instrument specialists. Proposal would be amended into sections of the current act.

5. Describe in detail the functions typically performed by practitioners of this occupation, and identify what if any specific statutory limitations have been placed on these functions. If possible, explain why the Legislature created these restrictions.

Assess the patient's level of hearing loss and communication needs. Perform and evaluate the appropriate audiometric tests. Evaluate the potential impact of the patient's health, family, and occupational history along with other psychosocial factors (e.g., lifestyle). Determine the appropriate treatment including hearing instruments and other assistive devices. We counsel patients and others regarding aural rehabilitation. Refer to other health care professionals when appropriate. We are not expected to give medical diagnoses.

Order, fit, take impressions, repair, dispense and adjust hearing instruments daily as needed. All necessary follow up and paperwork involved. Supervision, training and referrals as needed.

6. Identify other occupations that perform some of the same functions or similar functions.

Audiologists offer similar services.

7. What functions are unique to this occupation? What distinguishes this occupation from those identified in question 6

Hearing Instrument Specialists (HIS), while still seeing the general public in an office setting, will often provide services at their residence, an assisted living facility or skilled nursing facility and in rural settings.

8. Identify other occupations whose members regularly supervise members of this occupation, as well as other occupations whose members are regularly supervised by this occupation. Describe the nature of the supervision that occurs in each of these practice situations.

Both Hearing Instrument Specialists and Audiologists can supervise temporary licensees. For a hearing instrument specialist's temporary license, 80 hours of personal contact are required in the first 90 days. Unknown for Audiologist's temporary license.

Language from existing regulation:

The supervisor must meet with the temporary licensee face to face for 80 hours during the first 90 days of the initial training session, which will commence upon the issuance of the temporary license. Thereafter, the supervisor must meet with the temporary licensee monthly to evaluate the temporary licensee's performance in the following areas: (1) Audiometric

evaluations; (2) Impressions; (3) Purchase agreements; (4) Instrument orders; (5) Hearing instrument fittings; and (6) Consultation advice and training

9. **What actions, judgments, and procedures of this occupation can typically be carried out without supervision or orders? To what extent is this occupation, or portions of its practice, autonomous?**

We can perform all tasks in the domain of the HIS scope of practice. We must be fully licensed to run autonomously.

10. **Approximately how many people are performing the functions of this occupation in Nebraska, or are presenting themselves as members of this occupation? To what extent are these people credentialed in Nebraska?**

The 88 HIS are credentialed by IHS and the state plus 12 on temporary licenses. Some are also Board Certified.

11. **Describe the general level of education and training possessed by practitioners of this occupation, including any supervised internship or fieldwork required for credentialing. Typically, how is this education and training acquired?**

A HIS can get an associate degree in hearing instruments as a speciality (but this is only available in 3 states). Several paths available for training, both online and in person, until an individual is prepared to take the online written test/ILE. Once the Written test is passed you may sit for the Practical exam given yearly by the NE HIS Licensure Board. There is a formal apprenticeship program through the International Hearing Society and a 2 year distance learning course. Seminars are available in many forms for additional study. NE state license is obtained by passing a written (ILE) and practical exam. Once licensed, 24 hours of continuing education are required every 24 month period. Minimum requirement is a high school diploma and passing of both written and practical exams.

12. **Identify the work settings typical of this occupation (e.g., hospitals, private physicians' offices, clinics, etc.) and identify the predominant practice situations of practitioners, including typical employers for practitioners not self employed (e.g., private physician, dentist, optometrist, etc.).**

Primarily, HIS serve in an office setting. However, many hearing specialists are beginning to travel to nursing/assisted living facilities to administer care to residents. The profession is expanding to office settings and satellite offices covering rural areas. Appointments available for non ambulatory where they reside. Care facilities, housecalls. Additionally, self employed could be a private owner, physician/ENT owner, manufacturer controlled office, some big box stores or hearing aid franchise stores.

13. **Do practitioners routinely serve members of the general population? Are services frequently restricted to certain segments of the population (e.g., senior citizens, pregnant women, etc.)? If so, please specify the type of population served.**

Yes. We serve members of the general population who are 16 years of age or older. Primarily, seniors or those with a hearing loss. Oftentimes people with multiple disabilities.

14. Identify the typical reasons a person would have for using the services of a practitioner. Are there specific illnesses, conditions or situations that would be likely to require the services of a practitioner? If so, please specify.

Individuals utilize our services when they experience hearing difficulty or loss. They see us to obtain hearing instruments, accessories, or assistive listening devices from a licensed individual(not over the counter & only leave in if better, if not can remove).

15. Identify typical referral patterns to and from members of this occupational group. What are the most common reasons for referral?

We typically only refer people to an ENT, MD for the reasons listed in # 16. Refer for all FDA red flag conditions and to other professionals based on need (ie. for specialized services, in network insurance offices or based on geography).

16. Is a prescription or order from a practitioner of another health occupation necessary in order for services to be provided?

No. With the exception of a medical clearance to fit a person with hearing aid(s) if they were referred to an ENT, MD for one of the red flag reasons listed by the FDA. Also physician's signature required for all Medicaid and some insurance plans.

17. How is continuing competence of credentialed practitioners evaluated?

Continuing education is required as well as licensure.

18. What requirements must the practitioner meet before his or her credentials may be renewed?

To renew the license, all Hearing Instrument Specialists must have completed 24 contact hours of continuing education within the two years preceding the renewal period. Hearing Instrument Specialist licenses expire on December 31st of every even year. Also must not have had license revoked or been convicted of a felony since last renewal, or they must have reported as required, and must pay renewal fee due.

19. Identify other jurisdictions (states, territories, possessions, or the District of Columbia) wherein this occupation is currently regulated by the government, and the scopes of practice typical for this occupation in these jurisdictions.

Each state in the United States has regulations regarding the hearing aid profession. So do Canadian provinces and territories as well as worldwide - International Hearing society has

members from many countries. The U.S. Food and Drug Administration has updated regulations for HIS which are reflected in our requested statutory changes.

Additional Questions an Applicant Group Must Answer about their Proposal

1. **What is the problem created by not regulating the health professional group under review, or by not changing the scope of practice of the professional group under review?**

Our group is already regulated but would like to be more uniformly in line with our governing body's (IHS) scope of practice.

2. **If the proposal is for the regulation of a health professional group not previously regulated, all feasible methods of regulation, including those methods listed below, and the impact of such methods on the public, must be considered. For each of the following evaluate the feasibility of applying it to the profession and the extent to which the regulatory method would protect the public.**
   a. **Inspection requirements**
   b. **Injunctive relief**
   c. **Regulating the business enterprise rather than individual providers**
   d. **Regulating or modifying the regulation of those who supervise the providers under review**
   e. **Registering the providers under review**
   f. **Certifying the providers under review by the State of Nebraska**
   g. **Licensing the providers under review**

Professional group is currently regulated.

3. **What is the benefit to the public of regulating the health professional group under review or changing the scope of practice of the regulated health profession under review?**

By changing the scope of practice as stated we are able to provide an enhanced level of care for all individuals over the age of 16. This would be especially beneficial for underserved populations such as elders or individuals with disabilities who receive onsite services. These populations have a very difficult time accessing healthcare services.

4. **What is the extent to which the proposed regulation or the proposed change in scope of practice might harm the public?**

No harm to the public is anticipated as advanced training in the areas of scope change would be required of all Hearing Instrument Specialists desiring to perform these services.

5. **What standards exist or are proposed to ensure that a practitioner of the health professional group under review would maintain competency?**

The Nebraska Hearing Society, or the NE Licensing Board, would maintain records related to training and certifications for those licensed in Nebraska

6. **What is the current and proposed role and availability of third-party reimbursement for the services provided by the health professional group under review?**

We are currently able to accept 3rd party payers if properly credentialed and insured with each entity. Availability will only grow as insurance companies become more involved and cover hearing benefits/aids. (Medicare advantage plans etc.)

7. **What is the experience of other jurisdictions in regulating the practitioners affected by the proposal? Identify appropriate statistics on complaints, describing actions taken, etc., by jurisdictions where the profession is regulated.**

Each jurisdiction handles their own disciplinary cases. It is possible the IHS has statistics on complaints, could request if necessary.

8. **What are the expected costs of regulating the health professional group under review, including the impact of registration, certification, or licensure on the costs of services to the public? What are the expected costs to the state and to the general public of implementing the proposed legislation?**

No costs are anticipated for the state as The Nebraska Hearing Society will maintain training and certification records. No increase in costs to the general public are anticipated. Possible savings on travel costs. Additionally, a larger market may result in more competitive pricing.

9. **Is there any additional information that would be useful to the technical committee members in their review of the proposal?**

See attached documents for information on two potential IHS approved cerumen management courses. A possible course in Tympanometry, provided by Interacoustics, can be found by visiting https://www.interacoustics.com/academy/tympanometry-training. These programs could provide added education and training for Hearing Instrument Specialists.

No further information provided, but the Nebraska Hearing Society is happy to accommodate any requests from the Technical Review Committee.

Pacific Audiology Group

Cerumen Management Course
Course Outline

(1) General Cerumen Information
Cerumen composition/anatomy as well as production biology. Prevalence of impaction, and indications to address. Discusses scope of practice

(2) Ear Anatomy & Physiology
Anatomy review of the ear, focusing on anatomy specific to cerumen removal. Review of common conditions of the outer ear

(3) Case History & Ear Examination Process
This section reviewed the pre-removal process and the key components of this. Including otoscopy specific to cerumen removal, informed consent, cerumen removal case history, risk assessment, referral indication, modifying factors and precautions with a case example

(4) Infection Control
Best practices in infection control review, including hand hygiene, sterilization vs disinfection vs cleaning and indications for cerumen management. A special focus on cerumen management in the age of Covid-19. Prevention of post-removal infections.

(5) Equipment
A thorough review of all equipment commonly used in cerumen management. Including Lighting, magnification, softening agents, irrigation, manual removal and suction equipment, office furniture. As well as live video training from our team on a variety of equipment.

(6) Methods of Cerumen Management
Explanation of the process of cerumen removal for all three main methods of removal: Instrumentation, Suction, Irrigation, including video demonstrations of live removal by the instructors. This section also contains non-recommended methods of removal, prevention of cerumen buildup and patient handouts.

(7) After Cerumen Management
A review of the post-removal process, including addressing any bleeds or wet ears. The creation of a cerumen management plan and what is included as well as the documentation/discharge process.

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Cerumen Management

A Fascinating Video Demonstration Training Course

60+ Ear Wax Removal Procedures using five CM Methods

Cerumen Management is an *extraordinary* training course for both new and experienced hearing healthcare professionals which brilliantly illustrates proper ear wax removal procedures.

Available *Online*, *Flashdrive (USB)* or *Online-Subscription**, Cerumen Management consists of more than 60+ ear wax removal procedures to include the Q-tip, Curette, Forceps, Lavage/Irrigation & Vacuum Methods performed on patients with amazing detail by Dr. Luis M. Valdes.*

Approximately 6 hours in length, Cerumen Management includes a thorough and in-depth discussion about the outer-ear structures, ear drum, innervation and lymphatic systems and various wax consistencies to help determine the most appropriate methods to be performed.

Course materials also include a Final Exam*. Upon submission, a Certificate of Completion, suitable for framing, will be issued.

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Purchase price: $495*
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