REPORT OF RECOMMENDATIONS AND FINDINGS

By the Audiology and Speech-Language Pathology
Technical Review Committee

To the Nebraska State Board of Health, the
Director of the Department of Health and Human Services Regulation and
Licensure, and the Members of the Health and Human
Services Committee of the Legislature

October 25, 2006

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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.

MEMBERS OF THE AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY TECHNICAL REVIEW COMMITTEE (2006)

Janet Coleman, (Chairperson), Consumer Member, State Board of Health (Lincoln)

Teresa Hawk, Former Consumer Member, Board of Nursing (Chadron)

Chris Lee, Representing the Nebraska Physical Therapy Association (Lincoln)

Kelly Sheets, Banker, 5 Points Bank (Hastings)

Cindy Snyder, S.L.P., St. Elizabeth Regional Medical Center (Lincoln)

Britt A. Thedinger, M.D., Representing the Nebraska Medical Association (Omaha)

T. Paul Tomoser, Internal Audit Director, Creighton University (Omaha)

SUMMARY OF THE APPLICANTS' PROPOSAL

PROPOSED STATUTORY WORDING FOR AUDIOLOGISTS

The practice of audiology shall mean the application of evidence-based practice in clinical decision-making for the prevention, assessment, habitation/rehabilitation, and maintenance of persons with hearing, auditory function, vestibular function, and related impairments including; a) cerumen (earwax) management to prevent obstruction of the external ear canal and / or amplification devices; b) the evaluation, selection, fitting, and dispensing of hearing aids, implantable hearing aids, and assistive technology devices as part of a comprehensive audiological rehabilitation program.

CURRENT STATUTORY WORDING FOR AUDIOLOGISTS

The practice of audiology shall mean the application of principles, methods, and procedures for testing, measuring, and monitoring hearing, preparation of ear impressions and selection of hearing aids, aural rehabilitation, hearing conservation, vestibular testing of patients when vestibular testing is done as a result of referral by a physician, and instruction related to hearing and disorders of hearing for the purpose of preventing, identifying, evaluating, and minimizing the effects of such disorders and conditions but shall not include the practice of medical diagnosis, medical treatment, or surgery.

PROPOSED STATUTORY WORDING FOR SPEECH – LANGUAGE PATHOLOGISTS

The practice of speech-language pathology is defined as the application of principles and methods associated with the development and disorders of human communication skills and of disorders of swallowing (dysphagia). Such principles and methods include screening, assessment, evaluation, treatment, prevention, consultation, and restorative modalities for speech, voice, language and language-based learning, hearing, swallowing or other upper aerodigestive functions for the purpose of improving quality of life by reducing impairments of body functions and structures, activity limitations, participation restrictions, and environmental barriers.

CURRENT STATUTORY WORDING FOR SPEECH – LANGUAGE PATHOLOGISTS

The practice of speech-language pathology shall mean the application of principles, methods, and procedures for the evaluation, monitoring, instruction, habilitation, or rehabilitation related to the development and disorders of speech, voice, or language for the purpose of preventing, identifying, evaluating, and minimizing the effects of such disorders and conditions but shall not include the practice of medical diagnosis, medical treatment, or surgery.

CHANGES IN WORDING PERTINENT TO AUDIOLOGY AND SPEECH –LANGUAGE PATHOLOGY ASSISTANTS

Registered audiology and speech-language pathology assistants shall mean those practitioners who have graduated from a bachelor's level program with a major in communications disorders, or has an associate's degree in communication disorders or

equivalent. Currently assistants are only required to have a high school education or equivalent.

AN AMENDMENT TO THE PROPOSAL

At the second meeting of the technical review committee the applicant group amended the proposal in such a way as to delete item number four of Section 71-1,187 of their practice act. This change in the proposal, if it were passed, would have the effect of terminating the current exemption from the audiology and speech-language pathology licensure statute for the practitioners of these two professions who work in school settings that are under the auspices of the Nebraska Department of Education.

The Source for the information in this section is **The Applicants' Proposal, Pages 10-13.**

SUMMARY OF COMMITTEE RECOMMENDATIONS

The committee members recommended approval of the applicants' proposal by supporting the proposal on all four of the statutory criteria of the program pertinent to scope of practice proposals. These criteria and the respective votes taken were as follows:

Criterion one states:

> **The present scope of practice or limitations on the scope of practice 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.**

Ms. Snyder moved and Dr. Thedinger seconded that the proposal satisfies the first criterion. Voting aye were Hawk, Lee, Sheets, Snyder, Thedinger and Tomoser. Ms. Coleman abstained from voting. There were no nay votes.

Criterion two states:

> **The proposed change in scope of practice does not create a significant new danger to the health, safety or welfare of the public.**

Mr. Lee moved and Dr. Thedinger seconded that the proposal satisfies the second criterion. Voting aye were Hawk, Lee, Sheets, Snyder, Thedinger, and Tomoser. Ms. Coleman abstained from voting. There were no nay votes.

Criterion three states:

> **Enactment of the proposed change in scope of practice would benefit the health, safety, or welfare of the public.**

Dr. Thedinger moved and Mr. Lee seconded that the proposal satisfies the third criterion. Voting aye were Hawk, Lee, Sheets, Snyder, Thedinger and Tomoser. Ms. Coleman abstained from voting. There were no nay votes.

Criterion four states:

> **The public cannot be effectively protected by other means in a more cost-effective manner.**

Ms. Hawk moved and Dr. Thedinger seconded that the proposal satisfies the fourth criterion. Voting aye were Hawk, Lee, Sheets, Snyder, Thedinger and Tomoser. Ms. Coleman abstained from voting. There were no nay votes.

By these four votes the committee members recommended approval of the applicants' proposal.

FULL ACCOUNT OF COMMITTEE RECOMMENDATIONS

At their fourth meeting, the committee members formulated their recommendations on the applicants' proposal by applying the four statutory criteria to this proposal. All information included in this section of this report was generated at the fourth meeting.

Prior to taking action on the criteria the committee members initiated a final general discussion of the issues under review. During this discussion the committee members received comments from interested parties to the review pertinent to the subject of universal licensure. The committee members were informed by a representative of the State Speech and Hearing Association that employment status, and employee benefits of practitioners employed by the schools are linked to their certification status, and that any move towards universal licensure needs to be cognizant of this fact. The committee members were informed by a representative of the Department of Education that there would continue to be a need for practitioners to have a teaching certificate so that they are prepared to function capably in an educational environment, and to be aware of the educational issues that are the vital context within which work occurs in a school system. Cindy Snyder stated that the education and training of members of her profession should be sufficient for them to have these kinds of capabilities.

The committee members addressed concerns raised in previous meetings regarding there being no specific language in the proposal to prevent audiology assistants from dispensing and fitting hearing aids. Ms. Snyder stated that it would be easy to add language to the proposal that would prevent this from happening.

The committee members discussed concerns raised about the accuracy of the diagnostic methods used by SLPs to diagnose swallowing disorders. Ms. Snyder stated that the typical method is to utilize a barium swallow, and she went on to state that these procedures are done under the supervision of medical doctors which should address any concerns in that area.

The four criteria are as follows:

Criterion one states:

> **The present scope of practice or limitations on the scope of practice 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.**

Ms. Snyder moved and Dr. Thedinger seconded that the proposal satisfies the first criterion. Voting aye were Hawk, Lee, Sheets, Snyder, Thedinger and Tomoser. Ms. Coleman abstained from voting. There were no nay votes.

Chairperson Coleman then asked the committee members to discuss why they voted as they did on this criterion. Mr. Lee stated that the current scope of practice does not reflect the realities of professional practice, and that the current regulatory situation does not adequately provide for the regulation of services in all contexts wherein services are provided. Ms. Snyder stated that the current situation does not reflect the realities of practice, and that there are also concerns regarding access to services in the current

situation wherein practitioners must maintain two licenses in order to provide some of their services. Dr. Thedinger stated that the current situation does not match the realities of today's practice. Mr. Sheets stated that the current scope of practice needs to be updated to reflect the realities of practice. Ms. Hawks stated that the scope of practice needs to be updated and that the current practice situation in the schools is a source of potential harm to the public given that there is no continuing education requirement for practitioners employed by the schools.

Criterion two states:

> **The proposed change in scope of practice does not create a significant new danger to the health, safety or welfare of the public.**

Mr. Lee moved and Dr. Thedinger seconded that the proposal satisfies the second criterion. Voting aye were Hawk, Lee, Sheets, Snyder, Thedinger and Tomoser. Ms. Coleman abstained from voting. There were no nay votes.

Chairperson Coleman then asked the committee members to discuss their reasons for voting as they did on this criterion. Ms. Hawk stated that she could not see any new harm that the proposal would create. Mr. Sheets stated that he could see no potential for new harm from the proposal. Mr. Tomoser stated that he did not hear anything during the review that raised concerns about any potential for new harm from the proposal itself. Dr. Thedinger stated that he also heard nothing that raised any concerns about the potential for new harm. Ms. Snyder stated that the proposal was carefully written so as to address and correct potentially harmful situations in a safe and effective manner. Mr. Lee stated that he too could see no potential for new harm from the proposal.

Criterion three states:

> **Enactment of the proposed change in scope of practice would benefit the health, safety, or welfare of the public.**

Dr. Thedinger moved and Mr. Lee seconded that the proposal satisfies the third criterion. Voting aye were Hawk, Lee, Sheets, Snyder, Thedinger and Tomoser. Ms. Coleman abstained from voting. There were no nay votes.

Chairperson Coleman then asked the committee members to discuss their reasons for voting as they did on this criterion. Dr. Thedinger stated that the proposal would significantly benefit the public health and welfare by improving access to care and by clarifying the licensure situation of all practitioners, including matters pertinent to continuing education. Ms. Snyder stated that the proposal benefits public health and safety by creating uniform standards of training and education for all practitioners, and by requiring continuing education for all practitioners. Mr. Lee also stated that the principal benefit of the proposal was that it created uniform standards of practice for all practitioners regardless of their employment context. Ms. Hawk stated that another benefit of the proposal is that it creates the basis for disciplinary action against any offending practitioner regardless of where they are employed. Mr. Sheets stated that the benefits of the proposal for the public are very clear and undeniable. Mr. Tomoser stated that the proposal provides for greater access to services, more clearly defines

what practitioners do, and extends licensure to practitioners, who for all practical purposes, are not regulated.

Criterion four states:

> **The public cannot be effectively protected by other means in a more cost-effective manner.**

Ms. Hawk moved and Dr. Thedinger seconded that the proposal satisfies the fourth criterion. Voting aye were Hawk, Lee, Sheets, Snyder, Thedinger and Tomoser. Ms. Coleman abstained from voting. There were no nay votes.

Chairperson Coleman then asked the committee members to discuss their reasons for voting as they did on this criterion. Ms. Snyder stated that the proposal would not result in any additional costs to the public, and would serve to reduce duplication of services and credentials, thereby promoting greater access to services. Ms. Snyder added that the proposal would also extend regulation to practice settings wherein practice is currently unregulated. Dr. Thedinger concurred with Ms. Snyder that there is a need for the universal licensure component, but added that the applicant group and other interested parties need to do a great deal of additional networking to resolve outstanding concerns about how universal licensure could be brought to fruition. Mr. Tomoser stated that the public is clearly the winner in this proposal especially as regards the universal licensure component because it ensures common standards of practice across the board for all practitioners. Mr. Sheets stated that eliminating duplication of services and dual credentialing requirements would improve access to care. Ms. Hawk stated that the proposal increases access to care by making it unnecessary for clients to go to two providers to get the services that they should be able to get from one provider, and in this way the proposal saves time and cost to members of the public. Mr. Lee stated that the proposal updates practice, and that he could see no better way of doing it than the proposal.

By these four votes the committee members recommended approval of the applicants' proposal.

SUMMARY OF COMMITTEE DISCUSSIONS ON THE ISSUES UNDER REVIEW

Criterion One: Description of the Current Situation and Potential for Harm to the Public in the Current Situation

1. Overview of Proposed New Scope Elements in the Proposal

   Applicant group representatives testified that the current situation of their respective professions of audiology and speech-language pathology has lead to inconsistencies in practitioner abilities and services, has fragmented the provision of care, and has fostered barriers to the provision of services. Mary Friehe, President of the State Speech and Hearing Association, testified that the issue of swallowing has emerged as a major area of practice over the last two decades, and that in non-school settings surveys reveal that fifty-two percent of practitioners report that this is an issues among children that are part of their caseload. Ms. Friehe went on to state that the licensure statute as currently worded does not recognize this as part of the scope of practice, and that this is something that needs to be corrected. Ms. Friehe then commented that language-based learning among pediatric patients in non-school settings is another practice issue that has arisen over the last twenty years. She stated that this is another element that needs to be included in the scope of practice, but currently is not in the statute. **(The Transcript of the Public Hearing, August 30, 2006, Page 15)**

   The applicants also stated that their proposal specifically adds cerumen management to prevent obstruction of the external ear canal and/or amplification devices, and the evaluation, selection, fitting, and dispensing of hearing aids as components of audiology scope of practice. The proposed scope of practice for speech-language pathology specifically includes management of swallowing disorders. **(The Applicants' Proposal, Page 22)** The applicants indicated that these items are necessary to update the respective scopes of practice so that the statutory scope matches current practice.

2. Issues Regarding the Current Exemption from Licensure for Practitioners Employed by Public Schools

   Mary Friehe, the President of the State Speech and Hearing Association, testified that one of the goals of the applicant group is to eliminate the exemption for practitioners working in the public school system, and create a truly universal licensure for practitioners in Nebraska. Such a system would facilitate access to the highest quality of care in all practice contexts including those in the schools. School children would then receive the health benefit associated with practitioners who are practicing at the highest level of their profession. Such benefits would include the provision of treatment for swallowing disorders. Ms. Friehe continued her comments by informing the committee members that a survey of practitioners employed by the schools found that approximately fourteen percent of these practitioners indicated that swallowing issues has arisen among school children in their caseloads. Ms. Friehe stated that even though this is not a heavy proportion of the caseloads it is none-the-less large enough to warrant concern about these issues in school settings

as well. **(The Transcript of the Public Hearing, August 30, 2006, Page 16, 17, and 18)**

Ms. Friehe also stated that given the great extent of language-based learning problems in the general population there can be little doubt that this would also be an issue in school settings as well. **(The Transcript of the Public Hearing, August 30, 2006, Page 16)**

Cindy Snyder stated that there has been concern regarding public school teachers practicing SLP during off-time or tutoring at other facilities, which would constitute practicing without a license. We have to maintain the quality of care. Ms. Snyder stated that there is a lot of "blending" of jobs in schools. Speech-language pathologists are not teachers unless they are certified as a teacher. SLPs with a teaching certificate that allows them to assist with curriculum can be more involved in schools. **(The Minutes of the Second Meeting of the Technical Committee, July 26, 2006)**

Ms. Coleman commented on the fact that speech-language pathologists were not required to have a Master's degree in the past, and that she's glad to see the schools included in this change. Ms. Snyder commented that deleting the exemption would create only a minor change in rules and regulations. Ms. Coleman stated that most school districts would be willing to accommodate the change. She added that there is a need to address continuing education issues such as the number of hours required under the terms of the proposal. **(The Minutes of the Second Meeting of the Technical Committee, July 26, 2006)**

Pertinent to the merits of the concept of universal licensure for practitioners per se Ann Bird, representing the Nebraska Department of Education's Special Populations Office, indicated that her agency was neutral on this matter, but has concerns about how such a concept might be implemented. She suggested that one solution might be a universal grandfathering concept as a component of the universal licensure concept. **(The Transcript of the Public Hearing, August 30, 2006, Page 70-71)**

3. Issues Regarding Current Requirements for a Hearing Aid Dispensers and Fitters License

The applicants informed the committee members that although the current scope of practice for audiologists allows them to fit and dispense hearing aids, section 71-1,196 requires them to obtain an additional license as a hearing aid dispenser and fitter in order to provide this service. According to the applicants this means that the public is denied the expertise of audiologists in the purchase of and maintenance of hearing aids unless the audiologist in question has acquired an additional license as a hearing aid fitter and dispenser. The applicants indicated that the education and training that they already have provides them with what is necessary to perform the functions associated with being a dispenser and fitter of hearing aids in a safe and effective manner. **(The Applicants' Proposal, Page 37)**

Ryan McCreery, an audiologist at Boys Town National Research Hospital in Omaha, commented that the applicant group seeks to eliminate situations wherein clients must visit multiple providers in order to get the services they need. Mr. McCreery cited a hypothetical example in which someone goes to an audiologist to get his

hearing tested, but must then go to another practitioner to get fitted for a hearing aid if the audiologist doesn't have the additional license as a dispenser and fitter. **(The Transcript of the Public Hearing, August 30, 2006, Page 9)**

Dr. Thedinger asked how the dispensing license is currently acquired. Mr. McCreery responded that his profession is required to take a written exam and a practical evaluation. He stated that the examination is written by a national dispensing organization. He commented that the evaluation of skills by dispensers is often not done in as professional a manner as it should be, and that this has created problems in the past. He added that he doesn't believe that audiologists should be evaluated by people who have less training than they have. A representative of the Nebraska Hearing Society commented that Mr. McCreery's comments about unqualified testing by members of this profession were not representative of the testing process under discussion. **(The Minutes of the Second Meeting of the Technical Review Committee, July 26, 2006)**

At the public hearing, Stephen Bush, a representative of the dispensers and fitters, testified that it is the position of this profession that the only way to ensure the protection of the public as regards the services in question is to require that every person who seeks to provide these services be required to take the examination for the dispensers and fitters license. Mr. Bush commented that this licensure process has provided everyone with real world preparation and ensures that all practitioners demonstrate minimum competency and skill. **(The Transcript of the Public Hearing, August 30, 2006, Page 31)**

Criterion Two: Potential Harm from the Proposal

1. Issues Regarding the Current Exemption from Licensure for Practitioners Employed by the Public Schools

Ann Bird, representing the Nebraska Department of Education's Special Populations Office, testified on the proposed elimination of the exemption from licensure for practitioners working in the public schools. Ms. Bird urged the committee members not to act on the proposal until discussions between the applicant group and her Department can be completed. Ms. Bird stated that the proposed changes would impact approximately 460 speech-language pathologists in Nebraska, and could disrupt services if implemented too quickly. Ms. Bird went on to state that the proposed action has the potential for conflicting with state regulations pertinent to educational administration and supervision, specifically, NDE Rule Number 24. **(The Transcript of the Public Hearing, August 30, 2006, Page 70-71)**

Dr. Thedinger asked if it would be difficult for practitioners employed by the schools to get licenses. Ms. Snyder responded that those who graduated since 1985 were encouraged to meet the standards of their profession, and that for the majority of them there should not be a problem with meeting the standards of licensure. **(The Minutes of the Second Meeting of the Technical Review Committee, July 26, 2006)**

Chris Lee asked whether currently unlicensed practitioners would be required to pass board exams. Mr. Lee then asked whether grandfathering would be considered

for some practitioners. Mr. Tomoser suggested that there be a gradual phase-in period during which the currently unlicensed practitioners might be allowed to sit for the exam or show that they meet the requirements. Janet Coleman commented that the Department of Education might have data on the number of practitioners in question. Concern was expressed about the 20 hours of continuing competency required for re-certification and whether or not that was an adequate amount of CE. **(The Minutes of the Second Meeting of the Technical Review Committee, July 26, 2006)**

2. Issues Regarding Current Requirements for a Hearing Aid Dispensers and Fitters License

Mr. Tomoser asked for clarification about hearing aid fitting and dispensing and who performs these tasks. Mr. McCreery responded that fitters and dispensers must only have a high school diploma, whereas audiologists must have at least a Master's degree. He went on to state that as of next year there will be no more audiology Master's degree programs anywhere in the country, and the profession will be based on a Ph.D. level education. Current practitioners will be grandfathered in. Mr. McCreery went on to state that in other states, audiologists are not required to have a separate license for dispensing and fitting. They only need to have training to provide those services. Currently in Nebraska, an audiologist must have a dispensing license to do fitting and dispensing. Dr. Thedinger commented that it seems superfluous for them to have to have a separate license to be allowed to dispense hearing aids. **(The Minutes of the Second Meeting of the Technical Review Committee, July 26, 2006)**

Teresa Hawk asked whether there might be abuse if the requirement for a separate fitter and dispenser's license goes away. Mr. McCreery responded by stating that this would be no more of a problem than presently exists, and that any time there is an economic situation involved there is potential for abuse. **(The Minutes of the Second Meeting of the Technical Review Committee, July 26, 2006)**

Stephen Bush, representing the hearing aid dispensers and fitters, testified that some university audiology programs consist of little practical experience in fitting hearing aids, and that these programs are very broad based with no specific focus on dispensing and fitting per se. Mr. Bush indicated that granting persons educated and trained in this way permission to dispense and fit hearing aids without any additional training or examination would place the public at risk of harm. **(The Transcript of the Public Hearing, August 30, 2006, Page 33)**

Mr. Bush then expressed concerns about the potential for harm associated with the fact that under the proposal audiology assistants might be used in the dispensing and fitting process. Mr. Bush stated that under the proposal there is nothing to prohibit an Audiologist from delegating to an audiology assistant under their supervision the task of dispensing and fitting hearing aids. Mr. Bush felt that if this were to occur, this would add significantly to the potential for harm from the applicants' proposal since there is no assurance regarding the exact nature or quality of the training these assistants would have pertinent to the dispensing and fitting of hearing aids. **(The Transcript of the Public Hearing, August 30, 2006, Page 35)**

Mr. Tomoser asked why audiology assistants were included in the proposal in the first place. Mr. McCreery responded by stating that they were included for clarification and consistency. He added that unlike SLP assistants, audiology Assistants are not used very much in the provision of services. Mr. McCreery went on to state that his profession likes the O.T. and P.T. models for regulating assistants. Dr. Thedinger commented that his profession has no objections to these provisions in the proposal. **(The Minutes of the Second Meeting of the Technical Review Committee, July 26, 2006)**

Mr. Tomoser asked whether there should be well-defined duties for the different educational levels of assistive personnel, and asked what happens to those currently working without the needed educational standards. Ms. Snyder responded that this is not currently an issue in Nebraska. On the East and West coasts, it becomes more of an issue. Ms. Hawk asked whether they get credentials as an assistant. Ms. Snyder responded that they currently do not. Ms. Hawk noted that the person bearing the burden is the licensed person guiding these people. **(The Minutes of the Second Meeting of the Technical Review Committee, July 26, 2006)**

Mr. Tomoser asked about the economic impact of the proposal and its impact on services to the public. Ms. Snyder stated that assistants are currently working as paraprofessionals. Ms. Snyder informed the other committee members that Medicare and Medicaid standards call for licensure for these practitioners. Ms. Coleman asked whether aides can provide the same level of services as assistants. Ms. Snyder responded that they cannot. **(The Minutes of the Second Meeting of the Technical Review Committee, July 26, 2006)**

3. Other Scope of Practice Concerns Raised by the Proposal

Janet Coleman asked Mr. McCreery whether there is a need to include specifically defined practices in the scope language. Mr. McCreery responded that most programs contain coursework and training specific to the items that are proposed to be listed in the scope of practice. Mr. McCreery commented that audiologists have to make decisions about appropriate treatments all the time, and that when in doubt they send the patient to a specialist. **(The Minutes of the Second Meeting of the Technical Review Committee, July 26, 2006)**

Dr. Thedinger then asked whether adding the cerumen (earwax) management language would have the effect of making this a billable item. Mr. McCreery indicated that it would not, and that his profession is not looking at that as a possible billable item. He added that cerumen management is considered part of the patient evaluation process. **(The Minutes of the Second Meeting of the Technical Review Committee, July 26, 2006)**

Dr. Thedinger stated that audiologists can provide tests without referral from a physician, but that reimbursement is a different issue, and that 95% of their patients do have a referral from a physician because it helps with insurance. Mr. Lee then commented that many times the physician will refer the patient to an audiologist. **(The Minutes of the Second Meeting of the Technical Review Committee, July 26, 2006)**

Mr. McCreery added that lots of serious things can result from earwax removal, and that often audiologists are covered under a physician's liability for these things. Ms. Coleman asked where the liability falls for an SLP working in a school setting. Ms. Snyder responded that it resides with the school. **(The Minutes of the Second Meeting of the Technical Review Committee, July 26, 2006)**

Pertinent to the specific inclusion of items such as assessment, treatment, and maintenance of aural health of patients, and cerumen management (earwax) in audiology scope of practice as well as the specific inclusion of items such as assessment and treatment of speech and language disorders, and disorders associated with swallowing (dysphagia) in SLP scope of practice, neither the committee members nor any interested parties participating in the review process indicated any reason to be concerned about specifically stating these items in these respective scopes of practice at any time during the review process.

Criteria Three and Four: Potential Benefits from, and Cost-Effectiveness of, the Proposal

1. Issues Regarding Current Requirements for a Hearing Aid Dispensers and Fitters License

   Ryan McCreery, speaking on behalf of the applicant group, stated that there are significant benefits to the public associated with elimination of the dual licensure requirement, and these include greater efficiency in the provision of services and improvement in the overall quality of services. Mr. McCreery stated that the proposal would provide greater assurance that those who provide services would be providing them at a very high level. Mr. McCreery also stated that the proposal by ensuring that licensed audiologists would be able to dispense and fit hearing aids without having to go through any additional "hoops" would improve the accessibility of services for the consuming public by making it unnecessary to go to multiple providers to receive all the services that a consumer might need. **(The Transcript of the Public Hearing, August 30, 2006, Page 9)**

   Stephen Bush, speaking on behalf of the hearing aid dispensers and fitters, stated that the proposal would not only not benefit the public, but would actually be a source of confusion for the consuming public, and might even result in a reduction of services and an erosion in the extent of consumer protection. He went on to state that under the current situation the consumer has no doubt who is competent to dispense and fit hearing aids, or where to lodge a complaint about services provided. Mr. Bush went on to state that under the proposal this would no longer be the case. He stated that under the proposal the consumer must first determine whether the services are provided by an audiologist, an audiologists' assistant, or another type of provider if they had a complaint. Currently the consumer knows that any complaints they might have can be taken care of by reporting the situation to the Board of Hearing Aid Dispensers and Fitters. Mr. Bush indicated that the proposal unnecessarily complicates this process. **(The Transcript of the Public Hearing, August 30, 2006, Pages 36 and 37)**

   Ms. Snyder then commented on the changes related to SLP assistants and audiology assistants in the proposal. She stated that currently assistants are little more than aides, and that current requirements, which include a high school diploma

and 12 hours of on-the-job-training, do not prepare them to truly assist SLPs and audiologists. Training programs are not yet in place to prepare them for this role. She added that bringing this position up to a higher level would require more training. She stated that once this occurs, the SLP assistant can be used in many different situations. Ms. Snyder stated that currently they are limited because they are not licensed and are unable to provide intervention, especially in rural Nebraska, where SLPs in the schools need more help. She stated that the proposal calls for at least a two-year Associate's degree. She indicated that aides could still be used, but not for the more specialized needs. **(The Minutes of the Second Meeting of the Technical Review Committee, July 26, 2006)**

Ms. Snyder stated that a true SLPA would be involved in many aspects of the profession that are important to the public. She commented that SLPs cannot be continually monitoring the aides, and that her profession wants to make sure that quality service and supervision can be achieved. **(The Minutes of the Second Meeting of the Technical Review Committee, July 26, 2006)**

Ms. Snyder then introduced Brian McCreery, an audiologist with a doctoral degree who has an expertise in the area of testing. Mr. Tomoser asked whether earwax removal is typically done by a physician. Mr. McCreery responded that in the past they sent particular patients to physicians, but that audiologists feel that it is in their purview as professionals to remove earwax. Mr. Tomoser then asked whether the scope should include specific parts of the ear for analysis. Dr. Thedinger commented that this is already being done by audiologists and nurses, e.g. He added that this could raise some liability concerns, but that practitioners have to assume this kind of risk. He went on to state that most audiologists know what their limits are, and that they would send patients to a physician if it was necessary. **(The Minutes of the Second Meeting of the Technical Review Committee, July 26, 2006)**

2. Issues Regarding the Current Exemption from Licensure by Practitioners Employed by the Public Schools

Mary Friehe, speaking on behalf of the State Speech and Hearing Association, stated that the proposal benefits the public by providing greater uniformity of services as well as the various skill sets needed to provide services at the highest level possible. She indicated that the current dichotomous service situation between those who provide services within the public schools and those who serve the general public would be eliminated by the proposal, greatly enhancing both the consistency and quality of the services provided to all Nebraskans. **(The Transcript of the Public Hearing, August 30, 2006, Pages 23 and 24)**

Ann Bird, speaking on behalf of the Nebraska Department of Education, stated that her agency is concerned about possible disruption in services if the proposal were to be implemented without consideration of the need on the part of the approximately 460 affected employees to meet licensure standards. She advised delaying any decision regarding this proposal until her agency and the applicant group could network to address her agency's concerns. **(The Transcript of the Public Hearing, August 30, 2006, Pages 70 and 71)**

Ms. Coleman commented on the fact that speech-language pathologists were not required to have a Master's degree in the past, and that she's glad to see the schools included in this change. An exemption would lead to other problems. Ms. Snyder commented that deleting the exemption would create only a minor change in rules and regulations. Ms. Coleman stated that most school districts would be willing to accommodate the change. She added that there is a need to address continuing education issues under the terms of the proposal. **(The Minutes of the Second Meeting of the Technical Review Committee, July 26, 2006)**

There was discussion about whether the exemptions for SLPs practicing in public schools would be repealed. Ms. Snyder stated that the intent of the applicant group was to delete the exemptions, which would require that those persons practicing speech-language pathology in the school setting would need to be licensed. Chris Lee stated that he was glad to hear that this group would not be exempted only because they are working with children. **(The Minutes of the Second Meeting of the Technical Review Committee, July 26, 2006)**

3. Other Scope of Practice Issues Raised by the Proposal

There was a consensus among the committee members that the proposal was the most cost-effective means of updating and defining the functions and services of audiologists:

> The practice of audiology shall mean the application of evidence-based practice in clinical decision-making for the prevention, assessment, habitation/rehabilitation, and maintenance of persons with hearing, auditory function, vestibular function, and related impairments including; a) cerumen (earwax) management to prevent obstruction of the external ear canal and / or amplification devices; b) the evaluation, selection, fitting, and dispensing of hearing aids, implantable hearing aids, and assistive technology devices as part of a comprehensive audiological rehabilitation program.

There was a consensus among the committee members that the proposal was the most cost-effective means of updating and defining the functions and services of speech-language pathologists:

> The practice of speech-language pathology is defined as the application of principles and methods associated with the development and disorders of human communication skills and of disorders of swallowing (dysphagia). Such principles and methods include screening, assessment, evaluation, treatment, prevention, consultation, and restorative modalities for speech, voice, language and language-based learning, hearing, swallowing or other upper aerodigestive functions for the purpose of improving quality of life by reducing impairments of body functions and structures, activity limitations, participation restrictions, and environmental barriers.

The Source for the above quoted information in this subsection is **The Applicants' Proposal, Pages 10-13.**

There was no disagreement among committee members with applicant group arguments that these specific additions to the scope of practice of these two professions are

essential to clarifying for the public what services these professionals provide. Additionally, there were no comments from any interested parties who participated in the review indicating any concerns about adding these items to the respective scopes of practice of these two professions. **(The Minutes of the Second Meeting of the Technical Review Committee, July 26, 2006; and the Minutes of the September 27, 2006 Technical Committee Meeting)**

OVERVIEW OF COMMITTEE PROCEEDINGS

The committee members met for the first time for orientation to the review process on June 28, 2006.

The committee members met for their second meeting on July 26, 2006 to discuss the issues of the review and to define the agenda for their public hearing.

The committee members met on August 30, 2006 for their public hearing.

The committee members met on September 27, 2006 to formulate their recommendations on the issues under review.

The committee members met via teleconference on October 25, 2006 to finalize and approve their report of recommendations on the issues under review.