

FINAL REPORT OF RECOMMENDATIONS AND FINDINGS

By the Dental Hygienists' Technical Review Committee
for the Review of the Application for Change in Scope of Practice in Nebraska
by the Dental Hygienists of Nebraska

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

August 19, 2005

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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 DENTAL HYGIENISTS'
TECHNICAL REVIEW COMMITTEE**

Edward Discoe, M.D. (Chairperson)
(Columbus)

Robert L. Hinrichs, D.D.S.
(Lincoln)

Jane Broekemeier, R.D.H.
(Howells)

Anne Ames
(Lincoln)

Donna Ennis
(Omaha)

Jacob Sikes
(Kearney)

Kevin Warneke
(Omaha)

EXECUTIVE SUMMARY OF THE PROPOSAL AND RECOMMENDATIONS

SUMMARY OF THE APPLICANTS' PROPOSAL

The following two pages are summarized from the text of the applicants' proposal in their responses to Questions 3, 4, and 5 (Pages 4 through 8), and describe changes to the statute regulating dental hygienists.

(Note that underlined items represent proposed new language; language removed is indicated in the text as "deleted")

71-193-15: Licensed dental hygienist; functions authorized; when. Except as otherwise provided in section 71-193.17 a licensed dental hygienist shall perform the traditional dental hygiene functions set forth in such section 71-193.17 only when authorized to do so by a licensed dentist who shall be responsible for the total oral health care of the patient.

The following sentence is deleted from 71-193-15 in the proposal: The Department of Health and Human Services Regulation and Licensure in the conduct of public health related services may authorize a licensed dental hygienist to conduct preliminary charting and screening examinations, provide oral health education for patients including the teaching of appropriate plaque control techniques, and perform or provide all the duties that any dental assistant is authorized to perform.

71-193-16: Terms defined. For purposes of sections 71-183 to 71-193.20,
(1) General (Delete "(1)general") supervision means the directing of the authorized activities of a dental hygienist or dental assistant by a licensed dentist and shall not be construed to require the physical presence of the supervisor when directing such activities;
(2) Health care facility means a hospital, nursing home, an assisted living facility, home health agency, a correctional facility, a tribal clinic, or a public or private school or pre-school;
(3) Indirect (Delete "and (2)") supervision means supervision when the licensed dentist authorizes the procedure to be performed by a dental hygienist or dental assistant and the licensed dentist is physically present on the premises when such procedure is being performed by the dental hygienist pursuant to section 71-193.18 or the dental assistant; and
(4) Public health setting means a federal or state public health facility, community clinic, or other program or agency that primarily serves uninsured or public health care program recipients.

71-193-17: Licensed dental hygienist; procedures authorized; enumerated.

When properly authorized, a licensed dental hygienist, under the general supervision of a licensed dentist, may perform or a licensed dental hygienist with 3000 hours of clinical practice in no fewer than four of the preceding five calendar years may, in a health care facility or public health setting and without the authorization or supervision of a licensed dentist, perform the following intra and extra oral procedures:

- (1) The following statutory language is deleted in the proposal:

Scaling of teeth, including subgingival regions and root planning with hand and ultrasonic instruments

The following language is added to item (1) in the proposal:

Oral prophylaxis, periodontal scaling and root planning which includes supragingival and subgingival debridement;

- (2) Polish (Delete “all”) exposed tooth surfaces (Delete “with motor driven and hand instruments in the oral prophylaxis procedure,”) including restorations;
- (3) Conduct and assess preliminary charting and screening examinations and indexing of dental and periodontal disease;
- (4) Perform brush biopsies
(Delete “Periodontal probing and charting”)
- (5) Perform pulp vitality testing;
(Delete “Gingival curettage”)
- (6) Remove sutures;
(Delete “Place and remove periodontal dressings”)
- (7) Provide preventive measures, such as the application of fluorides, sealants, and other recognized topical agents for the prevention of oral disease;
- (8) Provide impressions for study casts;
- (9) Apply topical (Delete “desensitizing”) and subgingival agents;
- (10) Provide radiographic exposures
- (11) Provide oral health education, including conducting workshops and in-service training sessions on dental health (Delete “for patients”) including (Delete “the teaching of appropriate plaque control techniques; and;”)
- (12) Perform or provide all of the duties that any dental assistant is authorized to perform; and;
- (13) Prescribe, apply or dispense antimicrobial rinses, fluorides and other anticariogenic agents.

The proposal would have the effect of allowing dental hygienists to do their scope of practice except for anesthesia procedures without supervision while providing their services in the context of health care facilities as described in “terms defined” in this section of this report.

SUMMARY OF COMMITTEE RECOMMENDATIONS

The committee members recommended against approval of the applicants' proposal by taking action on each of the four statutory criteria applied to scope of practice proposals. The committee members recommended against the proposal on all four of these criteria. For a full account of the formulation of the recommendations on the four criteria, please turn to page eight of this report.

The committee members also adopted the following ancillary recommendations:

1. That fluoridation be mandated for all public water systems in Nebraska,
2. That Medicaid funding for dental care for underserved populations be increased,
3. That the Nebraska Dental Association's "Mission of Mercy" to Western Nebraska be supported,
4. That support for the dental sealant program of "Hope Medical" should be increased,
5. That UNMC's "Dental Day" and Creighton University's "Give Kids a Smile" program continue to receive support,
6. That funding for dental education through public health departments be encouraged,
7. That ways be found to encourage dentists to locate practices in underserved areas. The committee members expressed support for loan forgiveness programs and tax forgiveness programs as means of achieving this goal.

FULL COMMITTEE RECOMMENDATIONS ON THE PROPOSAL

During the fourth meeting of the review process for the proposal, the committee members determined that they were ready to make recommendations on the proposal. The committee members discussed the statutory criteria of the Credentialing Review Program as defined under Section 71- 6201 through Section 71- 6230 that must be used to make recommendations. (All information in this section of the report was generated at the fourth meeting)

The committee members then acted on the first criterion.

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.

Broekemeier moved and Hinrichs seconded that the proposal satisfies the first criterion. The first criterion asks whether or not there is significant harm or potential for significant harm to the public health, safety, or welfare in the current practice situation of the profession under review. Voting aye was Broekemeier. Voting nay were Hinrichs, Ames, Ellis, Sikes, and Warneke. Dr. Discoe abstained from voting. The motion did not pass. By this vote the committee members determined that they were not going to approve the proposal since by program rule a proposal must satisfy all four criteria in order to receive a positive recommendation.

The committee members were then asked by Chairperson Discoe to state why they voted as they did on this criterion. Ann Ames commented that she did not see harm in the current situation, and added that there needs to be a supervising dentist to ensure the best oral care. Jane Broekemeier commented that there are restrictions because the current statute requires that a dentist be responsible for oral care, and that this is not always possible because currently there is not a large number of dentists willing to accept low income and Medicaid eligible patients. Kevin Warneke commented that the current situation is not perfect, but that he could not see that it constitutes a harmful situation. Jacob Sikes commented that he agreed with Mr. Warneke's comment, and added that the information from the dentists during the review indicated that they are attempting to address the access problems. He stated that he prefers that dentists be the ones to handle the access-to-care problems. Mr. Sikes went on to state that the information provided by the dentists at the public hearing was more compelling than that from the applicant group. Donna Ennis commented that she saw no harm or danger in the current situation, and that dentists should be the ones in charge of providing dental care. Dr. Hinrichs commented that there is no evidence that the current practice situation of dental hygiene is a source of harm or danger to the public. He added that the profession of dentistry in Nebraska is moving toward improving access to dental care among underserved populations in our state.

The committee members then acted on the second criterion.

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.

Jane Broekemeier moved and Kevin Warneke seconded that the proposal satisfies the second criterion. The second criterion asks whether or not there would be significant new harm or

potential for significant new harm to the public health, safety, or welfare from approving the proposal. Voting aye were Broekemeier and Warneke. Voting nay were Hinrichs, Ames, Ennis and Sikes. Chairperson Discoe abstained from voting. The motion did not pass.

The committee members were then asked by Chairperson Discoe to state why they voted as they did on this criterion. Ann Ames commented that the proposal would create potential for harm because there would be no assurance that appropriate follow-up care would be provided to patients under the terms of the proposal. Kevin Warneke expressed concern about the word “significant” in the text of the criterion, and stated that this is why he voted for the proposal on this criterion. He went on to state that he could see some potential for new harm from the proposal but could not assess how significant this new harm might be. Jane Broekemeier commented that the experience of other states that have passed proposals similar to this one shows that there is no harm stemming from such proposals. She went on to state that there have been no disciplinary actions taken against dental hygienists in these states associated with outreach care provided by them to underserved populations. She added that all actions proposed by a dental hygienist are reversible. Jacob Sikes noted the testimony provided by Dr. Jessica Meeske, D.D.S., and Dr. Timothy Durham, D.D.S. at the public hearing pertinent to the education and training of dental hygienists, and commented that this testimony convinced him that their education and training was not sufficient to allow them to safely and effectively practice independently of a dentist. Donna Ennis commented that there was no convincing evidence that the proposal would provide a benefit to public health, and added that there is potential for new danger in the area of misdiagnosis and the lack of adequate follow-up care. Dr. Hinrichs commented that the proposal would fragment dental care, and that dentistry should be done by dentists, and that dental hygiene care should be done by dental hygienists.

The committee members then acted on the third criterion.

Criterion three states:

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

Jane Broekemeier moved and Donna Ennis seconded that the proposal satisfies the third criterion. The third criterion asks whether or not there would be significant benefit to the public health and welfare from approving the proposal. Voting aye was Broekemeier. Voting nay were Hinrichs, Ames, Ennis, Sikes, and Warneke. Chairperson Discoe abstained from voting. The motion did not pass.

The committee members were then asked by Chairperson Discoe to state why they voted as they did on this criterion. Dr. Hinrichs commented that the proposal would not create a benefit to the public health, and added that dental programs are in the process of addressing the access-to-care needs discussed in the proposal anyway. Donna Ennis commented that she could see no public health benefit to the proposal. Jacob Sikes commented that the potential for misdiagnosis and the lack of assurance of appropriate follow-up care would cancel out any benefits from the proposal. Kevin Warneke commented that he is not convinced that dental hygienists would actually move to underserved areas if the proposal were to pass. Jane Broekemeier commented that the proposal would improve access to the oral health care among underserved populations, and that this is documented in CDC and HRSNA literature. Ann Ames commented that she did not see a significant benefit to the proposal, and that it would not provide for safe and effective care.

The committee members then acted on the fourth criterion.

Criterion four states:

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

Jane Broekemeier moved and Kevin Warneke seconded that the proposal satisfies the fourth criterion. The fourth criterion asks whether or not the proposal is the most cost-effective option for resolving the issues raised during the review. Voting aye was Broekemeier. Voting nay were Hinrichs, Ames, Ennis and Sikes. Kevin Warneke and Chairperson Discoe abstained from voting. The motion did not pass.

The committee members were then asked by Chairperson Discoe to state why they voted as they did on this criterion. Kevin Warneke commented that he did not feel that there was sufficient information on possible alternatives to the proposal to either oppose or support it on this criterion. Ann Ames commented that money would better be spent improving the public's access to the care provided by dentists rather than attempting to expand access to the care of dental hygienists. Jacob Sikes and Dr. Hinrichs expressed their agreement with Ms. Ames comments. Jane Broekemeier commented that there would be great benefit to preventive care provided in the context of outreach programs which go beyond what dentists are typically willing to provide. She added that preventive care of this kind is a great investment, and that every dollar invested in preventive care saves fifty dollars in restorative care. Donna Ennis commented that it would be more cost-effective to find ways of expanding access to the services of dentists than it would be to expand access to the services of dental hygienists as a means of improving access to underserved populations.

By these four votes on the criteria, the committee members recommended against approval of the proposal.

Ancillary Recommendations

Chairperson Discoe asked the committee members whether there were any additional recommendations that they would like to make pertinent to the issues under review. Kevin Warneke moved and Dr. Hinrichs seconded that the following ancillary recommendations be adopted by the committee members:

1. That fluoridation be mandated for all public water systems in Nebraska,
2. That Medicaid funding for dental care for underserved populations be increased,
3. That the Nebraska Dental Association's "Mission of Mercy" to Western Nebraska be supported,
4. That support for the dental sealant program of "Hope Medical" should be increased,
5. That UNMC's "Dental Day" and Creighton University's "Give Kids a Smile" program continue to receive support,
6. That funding for dental education through public health departments be encouraged,
7. That ways be found to encourage dentists to locate practices in underserved areas. The committee members expressed support for loan forgiveness programs and tax forgiveness programs as means of achieving this goal.

The committee members adopted these ancillary recommendations unanimously by acclamation.

COMMITTEE DISCUSSION ON ISSUES OF THE REVIEW

1) Do the restrictions on current Dental Hygiene practice comprise harm or potential for harm to the public health, safety, or welfare?

Jane Broekemeier, R.D.H., initiated the discussion on the issues by commenting on a report by the Surgeon General entitled, "2004 Report – National Call to Action to Promote Oral Health". This report reveals that access to dental care is a greater problem than has heretofore been realized. Ms. Broekemeier continued her comments by stating that it is reasonable and sensible that dental hygienists try to address these access problems by reaching out to vulnerable elements of the population to provide oral care. Dr. Discoe asked Ms. Broekemeier to identify the populations to which she was referring. She responded by stating that she was referring to those of poor socioeconomic status, primarily children living in poverty and the elderly, including residents of nursing homes without health insurance. She commented that the proportion of people who do not have dental insurance is 2.5 times greater than those who don't have medical insurance, and that twenty percent of the population has almost eighty percent of the dental problems. **(The Minutes of the Second Meeting, Held on May 20, 2005)**

Ms. Broekemeier commented that most of the mobile care for children is associated with the need for a "well baby dental check" at one year of age, and that if the child has decay or pre-decay, a fluoride varnish can be applied which will prevent further decay. She commented that under statute, they can provide care in a health clinic, but still have to be under the general supervision of a dentist who assumes responsibility for the total oral health care of the patient. She added that if you provide oral health education, you must get permission from the Health and Human Services Agency. Ms. Broekemeier informed the committee members that she was told by the Agency that she could provide education, but could not perform screenings without supervision because a dentist would need to be involved to ensure that the total oral health of the patient was being considered. Donna Ennis noted that there is a grant for oral screening, but noted that this grant might be limited to funding the work of school nurses to provide the oral screening. **(The Minutes of the Second Meeting, Held on May 20, 2005)**

Ms. Broekemeier commented that for every dollar spent on preventive care, up to fifty dollars can be saved on restorative care, and that herein lies the source of public harm stemming from the current restrictions on access to dental hygiene services in Nebraska. She added that poor oral health can lead to heart disease, stroke, diabetes, and pre-term low birth weight babies. **(The Minutes of the Second Meeting, Held on May 20, 2005)**

Dr. Hinrichs commented that he would be willing to pay a dental hygienist to provide outreach services pertinent to preventive dental care. Dr. Discoe commented that the shortcoming of the current situation is that the dentist has the authority to say "no" to the provision of such care. **(The Minutes of the Second Meeting, Held on May 20, 2005)**

The applicants stated in their proposal that legislative restrictions make it difficult for children, elderly, low-income populations, and minorities to access preventive oral care. The applicants argue that the restrictions on the practice of dental hygienists imposed by current oversight requirements impede the ability of these practitioners to provide this kind of care. **(The Applicants' Proposal, Page 16)**

During the public hearing, Roxanne Denny, R.D.H., testifying on behalf of the applicant

group, informed the committee members that she was very fortunate to be employed by a dentist who has a great interest in public health. She went on to state that such an interest in public health is not typical of dentists in our state, and that most dentists are not as willing to allow their dental hygienists to provide preventive care in public health contexts as is her employer. She went on to state that this is why there is a need to change the statute to allow dental hygienists to provide preventive care to the poor and minorities outside of the typical context of a dental office without having to get the permission of a dentist. **(The Transcript of the Public Hearing, Pages 80 and 81)**

Ms. Denny continued her testimony by stating that poor and minority children are the populations with the greatest need of preventive care. She added that these children seldom if ever go to a dental office for care, and that unless there is an effort to reach out to them and provide dental care for them in contexts that are affordable for them, many of these children will end up in the emergency room. She indicated that the current proposal would provide this kind of community outreach. **(The Transcript of the Public Hearing, Page 88)**

During the public hearing, Annette Byman, R.D.H., testifying on behalf of the applicant group, informed the committee members that there are a significant number of dental hygienists located in rural areas of Nebraska who could provide preventive oral care to underserved populations if the laws were changed to allow them to provide these services. She cited maps showing the distribution of dental hygienists provided to her by the Office of Rural Health of the Nebraska Health and Human Services Agency, and also cited a survey conducted by a professor at Wayne State College in Nebraska on the distribution of dental hygienists in our state. **(The Transcript of the Public Hearing, Page 13)**

The applicant group provided the committee members with information from a study by the Nebraska Dental Association pertinent to the dental workforce in Nebraska. According to this study more than thirty percent of Nebraska's dentists are planning to retire by 2009. The study also showed that since 1993 the number of dentists practicing in Nebraska has decreased by nearly five percent, while the total population of our state has increased slightly during this same time period. The study shows that during the decade of the 1990's only 147 dentists entered practice in our state compared to 290 during the previous decade. During the entire twenty-year period between 1980 and 2000, the state's total population increased by approximately six percent. **(The Applicants' Proposal, Appendix "D")**

During the public hearing, David O' Doherty, the Executive Director of the Nebraska Dental Association, commented that access to oral care is a serious problem in Nebraska, but that this problem is not caused by legislative restrictions as the applicant group has argued. He stated that a study by the Kellogg Foundation has revealed that the primary reason for the inability to access care is financial, specifically, the inability of those persons of lower socioeconomic status to afford this kind of care. He went on to comment that applicant group assertions that the current statutory requirement that dental hygienists must work under general supervision is the source of these access problems is not accurate. He added that the present statute allows dental hygienists to do everything currently listed under general supervision, which would allow them to do preventive oral care outside of the office of their employer. **(The Transcript of the Public Hearing, Pages 37 and 38)**

Mr. O' Doherty commented on the applicant group's assertions that dental hygienists are required to move to the location of the dental office in order to provide their services by stating that this assertion is not accurate. He commented that there are dentists who

employ dental hygienists who live and work in a wide range of different communities, and

that they have not been required to move to the location of their supervisor's dental office. **(The Transcript of the Public Hearing, Page 38)**

Mr. O'Doherty commented on applicant assertions about there being a shortage of dentists in Nebraska by stating that in fact, the state's dentist-to-population ratio has improved between 2000 and the present, and that Nebraska is well within federal guidelines pertinent to the ratio of providers to population. He stated that this is due to an increase in the total number of dentists in our state from less than one thousand in the year 2000 to nearly eleven hundred currently. **(The Transcript of the Public Hearing, Page 38)**

Mr. O' Doherty commented on applicant assertions in their proposal that other states surrounding Nebraska have passed legislation allowing their dental hygienists greater independence so that they can thereby improve access to oral care among poor and minority populations. He responded to this by stating that Iowa, Minnesota, and Kansas all require written agreements with a supervising dentist, and that in effect this is general supervision. He went on to state that in Oregon, Colorado, California, and Montana, where no practice agreement is required, the proportion of dental hygienists participating in outreach programs to underserved populations is very low relative to the total number of hygienists. As an example, he cited Colorado where only five hygienists are serving in underserved areas of that state. He discussed California, where only twenty-four out of a total of approximately twenty thousand hygienists are practicing in underserved areas. He went on to state that in those states with outreach programs that do not require some kind of general supervision, the rate of participation by dental hygienists is well under one percent. He went on to state that his study revealed that the location and distribution of dental hygiene practitioners in states with outreach programs tends to parallel the location and distribution patterns of dentists and that these location patterns are determined by financial opportunities. He added that dental hygienists, like dentists, tend to locate in the more affluent areas, not in underserved areas of these states. **(The Transcript of the Public Hearing, Pages 40, 41, and 42)**

Mr. O' Doherty presented a map to the committee members showing the location of dental offices across Nebraska, and commented that this map shows that there is coverage by dentists of most of the state. This map delineated a coverage area consisting of a twenty-five mile radius around each practice location. He commented that there are sufficient dental practice locations in all areas of the state from which outreach services could be provided. **(The Transcript of the Public Hearing, Page 42)**

2) Would the proposal be effective in improving access to care?

Dr. Discoe wanted to know how feasible it is to provide outreach to underserved populations in Nebraska. Dr. Hinrichs commented that it is difficult to provide outreach dental services for nursing homes, e.g., because these facilities typically do not have the set-up for onsite dental care, and nursing home staff typically do not have the time to cooperate with such a process. Dr. Hinrichs commented that geriatric patients frequently lack the dexterity to clean their teeth. Ms. Broekemeier then stated that some outreach situations can be dealt with by mobile care units. Dr. Hinrichs responded that this has been tried, but the question is who pays for the equipment and other costs associated with such efforts?

(The Minutes of the Second Meeting, Held on May 20, 2005)

Kevin Warneke asked the applicant group whether they could "set-up" their practices in underserved counties and then provide preventive care independently? Ms. Broekemeier

responded that this could not occur because there would still be supervision requirements to satisfy. Dr. Discoe then asked the applicants to provide information from the states that allow unsupervised/reduced levels of supervision that would identify where preventive care programs have shown evidence of improvement in the oral health of underserved populations. Dr. Discoe asked the applicants to look for data from the Medicaid programs of states with reduced levels of supervision that would show whether or not preventive care programs has resulted in any cost-savings. **(The Minutes of the Second Meeting, Held on May 20, 2005)**

Mr. Warneke asked the applicants why the committee members should believe that dental hygienists would be willing to go to remote rural areas of Nebraska to provide their services. Ms. Broekemeier responded that the applicant group is not proposing to set up freestanding clinics in these areas since they would have to be associated with public health facilities or health care facilities. She added that the applicant group is trying to find ways of funding outreach programs from wherever they are currently located. She commented that there might be a need for federal grant money to fund these efforts. **(The Minutes of the Second Meeting, Held on May 20, 2005)**

Ms. Broekemeier then informed the committee members that 800 licensed dental hygienists were surveyed and that forty-seven percent of these expressed an interest in providing care in public health settings. Kevin Warneke asked Ms. Broekemeier whether dental hygienists would be willing to deal with Medicaid. She responded that this is already happening in other states. **(The Minutes of the Second Meeting, Held on May 20, 2005)**

Ms. Broekemeier commented that she doesn't see any risks in the types of care they would provide. Dr. Discoe asked whether there is a risk that insurance might not reimburse for the services because of there being no supervising physician, and asked specifically about Medicaid. Ms. Broekemeier responded that she has had discussions with Medicaid and was told that if the proposal were put into statute they would cover the dental hygiene costs. She clarified that this would be a direct reimbursement to the dental hygienists providing these services. **(The Minutes of the Second Meeting, Held on May 20, 2005)**

During the public hearing applicant testifiers argued that evidence demonstrates that moving to unsupervised practice for dental hygienists effectively improves access to preventive care for poor and minority patients. Annette Byman, R.D.H., stated that there are nineteen states wherein there is such unsupervised practice for dental hygienists. She went on to state that information from both patients and providers in these states indicates that dental hygienists are willing to go to remote underserved areas to provide their services. She cited examples from states such as Connecticut and South Carolina to support her arguments. She informed the committee members that in Connecticut, school-based dental sealant programs have provided more than 55,000 oral health care procedures and more than 23,000 visits in just one school year. She stated that more than 5,600 sealants were placed. She informed the committee members that in South Carolina more than 10,000 sealants were placed in one school year. She stated that the feedback received from those states that have outreach programs utilizing dental hygienists clearly indicates that these programs are perceived as having greatly improved access to oral care for underserved populations. **(The Transcript of the Public Hearing, Pages 10, 11, and 12)**

Roxanne Denny, R.D.H., another applicant testifier, commented on the rise of public health care clinics in Nebraska. She stated that these clinics have great potential for addressing the needs of underserved populations, and that they need the participation of dental

hygienists to address the oral care needs of these populations. **(The Transcript of the Public Hearing, Pages 80)**

Annette Byman, R.D.H., compared what the proposal was attempting to do pertinent to dental hygiene services to the current situation of some registered nurses that are currently providing medical outreach services in schools and public health clinics. She stated that these nursing services emphasize screening and preventive care as would dental hygienists if they were given the opportunity. **(The Transcript of the Public Hearing, Pages 86)**

During the public hearing, David O' Doherty, an opponent testifier, stated that studies have shown that the location and distribution of dental hygiene practitioners in states with outreach programs tends to parallel the location and distribution patterns of dentists. He stated that these locational patterns are determined by financial opportunities. He commented that dental hygienists, like dentists, tend to locate in the more affluent areas, not in underserved areas of these states. He informed the committee members that in states with outreach programs, the research shows that very few dental hygienists are relocating to underserved areas of those states. He stated that the participation rate of dental hygienists in outreach programs in states without a supervision agreement is less than one percent of the total number of dental hygienists. He commented that in Nebraska, the same financial issues that are making it difficult for dentists to participate in outreach programs for underserved populations would also be problems for dental hygienists as well. **(The Transcript of the Public Hearing, Pages 40, 41, and 42)**

Dr. John Ahlschwede, D.D.S., an opponent testifier, commented on the experience of other states that have allowed dental hygienists to do outreach to vulnerable populations. He stated that South Carolina has allowed dental hygienists to do dental sealants in schools. According to Dr. Ahlschwede, South Carolina has found that these sealants have had an almost fifty percent failure rate, and that this high failure rate has created concern among lawmakers in that state. He stated that doing sealants can be a very challenging procedure and that the best way to ensure success is to utilize the best equipment and expertise available, which is often difficult to do in outreach situations, especially when a dental professional is trying to do this as an individual apart from their colleagues in the dental office. He indicated that the best way to do outreach is to utilize a mobile office approach wherein dentists and dental hygienists go out together to provide care as components of an outreach team. **(The Transcript of the Public Hearing, Pages 49, 50, and 51)**

Dr. Jessica Meeske, D.D.S., another opponent testifier, commented that the arguments of the applicant group regarding the access-to-care problems under review overlook their multifaceted nature, and that if these problems were as simple as education, fluoride, and sealants, they would have been solved a long time ago. She informed the committee members that cultural and social barriers complicate these access problems, especially in the Hispanic communities where parents are reluctant to do anything about the dental problems of their children unless it has become an emergency. She indicated that given the great range in the oral health condition of poor and minority children, the ability of a dental hygienist working alone in a community outreach situation to successfully deal with the oral health problems of these children would be very limited. **(The Transcript of the Public Hearing, Pages 67 and 68)**

Dr. Scott Morrison, D.D.S., another opponent testifier, informed the committee members that in the state of Colorado, those dental hygienists in independent practice were charging fees that were equal to those being charged by dentists, and that given these kinds of fees,

this type of practice would not be helpful to poor and minority patients. He commented that this supports the opponent contention that the solution to the access problems in question are financial in nature, not statutory in nature, and that until funds become available to support outreach programs, they will inevitably fail. **(The Transcript of the Public Hearing, Page 73)**

Dr. Meeske informed the committee members that very often a dental practice loses money on Medicaid patients, and that these losses are compensated for by private-paying patients that pay either out-of-pocket or through a private dental insurance plan. She commented that this shows that outreach programs cannot operate as stand-alone programs, and that when community outreach has worked is when such programs have received federal funding through grants or other public funding that private businesses are not eligible to receive. **(The Transcript of the Public Hearing, Page 94)**

3) Would the proposal create significant potential for new harm to the public health, safety, or welfare?

Dr. Hinrichs informed the committee members that under Nebraska law, the dentist is ultimately responsible for patient care, not the hygienist, and that the dentist is liable if something goes wrong regarding any aspect of care being delivered in their office. **(The Minutes of the Second Meeting, Held on May 20, 2005)**

Kevin Warneke asked the applicant group to describe the differences between dental hygienists and dental assistants. Jane Broekemeier, the applicant group representative, responded by stating that dental assistants can be trained either via "OTJ" or via a formal one-year training course in community colleges. Ms. Broekemeier informed the committee members that dental assistants are trained to do room set-up and sterilization, and can do coronal polish if they have been certified to provide this specific function. She also stated that they assist the dentist with restorative procedures. Ms. Broekemeier went on to state that dental assistants function as extenders for the dentist and all their work must be done under direct supervision, and that in Nebraska they are not credentialed by the state. **(The Minutes of the Second Meeting, Held on May 20, 2005)**

Ms. Broekemeier described dental hygienists. She stated that the emphasis of dental hygiene practice is preventive care, and that they are required to graduate from a two-year accredited program and be licensed in Nebraska. She stated that many hygienists have Bachelor of Science degrees and that they are trained to do a medical history, intra-extra oral exams, and evaluate for dental/periodontal disease for patients. She added that they are able to provide prophylaxis to help prevent periodontal diseases, and can do scaling as well as treat periodontal disease via debridement, for example. **(The Minutes of the Second Meeting, Held on May 20, 2005)**

Ms. Broekemeier stated that dental hygienists are allowed to work under general supervision, meaning that the dentist does not have to be on premises when the hygienist provides their care, except for the provision of anesthesia. Ms. Broekemeier informed the committee members that pertinent to anesthesia, dental hygienists can provide local anesthesia, but that the law requires that the dentist must be on the premises for them to provide this modality. Ms. Broekemeier added that the hygienist is trained to diagnose a dental problem and create a treatment plan for treating the patient's dental care problem with the patient's consent. Ms. Broekemeier added that according to the ADA Accreditation Standards, the dental hygiene graduates must be competent in providing a dental hygiene diagnosis, a dental hygiene treatment plan, and a dental hygiene case presentation.

(The Minutes of the Second Meeting, Held on May 20, 2005)

Dr. Discoe asked Ms. Broekemeier whether the proposal would authorize dental hygienists to assume the total oral health of the patients, and whether they are able and willing to provide the responsibility for total care. Ms. Broekemeier responded in the affirmative, and that dental hygienists would take responsibility to refer patients to a dentist who would provide total oral care pertinent to those aspects of care beyond their scope of practice. Dr. Discoe then asked the applicants to whom they would make a referral, given that there is such a great shortage of dentists in our state. Ms. Broekemeier responded by stating that the dental hygienist would take on the responsibility of finding a dentist in such a situation. Committee member Sikes expressed some skepticism regarding how a dental hygienist could oversee the total care of patients given that their education and training is not focused on overall patient care management. **(The Minutes of the Second Meeting, Held on May 20, 2005)**

The applicants informed the committee members that under the terms of the proposal dental hygienists would be allowed to prescribe and dispense fluoride in the process of providing preventive care. Mr. Warneke asked what the potential for abusing this privilege might be. Ms. Broekemeier responded that action could be taken against the license of any dental hygienist that would abuse any of the substances or modalities they use just as it would be for any licensed professional. Mr. Warneke asked the applicant whether they are trained to prescribe. Ms. Broekemeier responded that dental hygienists receive ample education and training to do this aspect of the proposed scope of practice. **(The Minutes of the Second Meeting, Held on May 20, 2005)**

Ms. Broekemeier commented that the proposal would require a dental hygienist to have 3000 hours of clinic practice in four of the preceding five years. Dr. Discoe asked whether 3000 hours is the same requirement as in other states. Ms. Broekemeier responded in the affirmative. Dr. Hinrichs asked whether there is data from other states that support the 3000 hours of practice. Ms. Broekemeier responded that this is something the applicants would address at the public hearing. **(The Minutes of the Second Meeting, Held on May 20, 2005)**

The applicants were asked about how they would handle medical emergencies that do not rise to the level of calling emergency medical services. The applicants responded that they possess training to handle emergencies, and that they would provide more information on this at the public hearing. Committee member Sikes asked the applicants whether the proposal would have the impact of pulling Medicaid patients from dentists. Ms. Broekemeier responded that this should not be an issue, and that most dental offices only have a percentage of Medicaid patients that they will accept. **(The Minutes of the Second Meeting, Held on May 20, 2005)**

During the public hearing, the opponents stated that the proposal would create potential for new harm to the public health and welfare. Dr. Meeske stated that the proposal would create a two-tiered system for dental care for our state, one for those who can afford care, and another for those who cannot. She stated that such a system would be inequitable. She went on to state that the proposal would put dental hygienists in a position to be gatekeepers for oral care, and patients would assume that they are receiving total health care when they visit their hygienist. She commented that even the best-trained and most experienced dental hygienists are not qualified to practice independently of a dentist. **(The Transcript of the Public Hearing, Page 62 and 63)**

Dr. Meeske continued her comments on the potential for harm from the proposal by stating that it would lead to dental hygienists billing Medicaid directly, and that this has potential of being a major problem. She stated that such billings would take Medicaid funds away from the restorative component of dental care to fund the preventive component of dental care. **(The Transcript of the Public Hearing, Page 64)**

Dr. Meeske continued her remarks on the potential harm of the proposal by stating that the inclusion in the proposal of prescriptive authority, the management of medical emergencies, and doing biopsies create serious concerns about the proposal. She added that the proposal does not clarify who would be responsible for follow-up for these procedures, or who would inform the patient pertinent to such follow-up. **(The Transcript of the Public Hearing, Page 65)**

Another opponent testifier, Dr. John Ahlschwede, D.D.S., commented that the proposal would fragment the delivery of dental care in our state. Dr. Ahlschwede informed the committee members that teamwork is what facilitates the delivery of quality dental care, and that the proposal goes against this important aspect of care. **(The Transcript of the Public Hearing, Page 49)**

During the public hearing, applicant testifiers responded to concerns about the potential impact of their proposal on the delivery of oral care. Roxanne Denny, R.D.H., commented that the proposal would not fragment the delivery of dental care; rather, it would offer additional routes for underserved populations to gain entry into the delivery system. She cited as an example the services some RNs are providing for physicians by working in medical outreach programs. She argued, by drawing an analogy, that just as these programs have not fragmented the delivery of medical care, there is no reason to believe that the proposal would fragment the delivery of dental care. **(The Transcript of the Public Hearing, Page 89)**

Ms. Denny responded to opponent concerns about the potential of the proposal to make dental hygienists gatekeepers in the delivery of dental care. She stated that this is something that should be seen as an opportunity to open up the health care system to underserved populations. She commented that as licensed professionals, dental hygienists are held to certain ethical standards, and that they have the education and training to recognize serious oral conditions and make an appropriate referral. She informed the committee members that dental hygienists are primary caregivers, while dentists are secondary and tertiary caregivers. She commented that dentists fix oral conditions that have gone wrong, while dental hygienists seek to do preventive care so that the patient won't need to undergo an oral surgical procedure, and that the proposal would not change these respective roles in the delivery of oral care. **(The Transcript of the Public Hearing, Pages 89 and 90)**

Another applicant testifier, Darlene Carritt, R.D.H., informed the committee members about the education and training of dental hygienists by stating that the accreditation standards for their education includes requirements in the following topic areas:

1. Medical emergency management
2. Patient management
3. Clinical provisions for the management of patients with special needs
4. Health promotion
5. Preventive counseling
6. Legal and ethical aspects of practice

7. Infection and hazard control management
8. Basic life support (CPR)

Ms. Carritt commented on the 3000-hour post-graduate requirement as stated in the proposal by stating that this amount of supervised practice would be comparable to a general practice residency. She commented that it was made a component of the proposal in order to provide the public with the assurance that those who satisfy this requirement would be able to practice unsupervised in a manner consistent with safety and effectiveness. **(The Transcript of the Public Hearing, Pages 25, 26, and 27)**

Dr. Timothy Durham, D.D.S., an individual testifier from the dental college at UNMC and not affiliated with any of the group presentations at the hearing, provided information to the committee members regarding the education and training of dental hygienists. He expressed the opinion that the post-graduate program described in the applicants' proposal cannot be equated with a one-year practice residency program. He informed the committee members that the post-graduate program consists of a one-week rotation in a hospital setting and lectures by a university instructor. He added that these are by no means comparable to general practice residency presentations. **(The Transcript of the Public Hearing, Page 84)**

4) Are there alternatives to the proposal for resolving the access to care problems discussed during the review?

Mr. Warneke asked for a clarification to the idea of general supervision pertinent to what it means when it is stated that the dentist doesn't have to be "there" under the concept of general supervision. Ms. Broekemeier responded that this concept means that the dentist could be anywhere, even out of the country, but must at least be accessible to the dental hygienist via some form of electronic communication. **(The Minutes of the Second Meeting, Held on May 20, 2005)**

Dr. Discoe asked the applicants whether there have been any efforts made to use telemedicine as a means of communicating between dentists and dental hygienists, and if so, how might this work? An audience member with the applicant group responded that UNMC just started using telemedicine in communicating with the College of Dentistry in Scottsbluff, and that under this system a dental hygienist can do an assessment and transmit it via telemedicine to UNMC. **(The Minutes of the Second Meeting, Held on May 20, 2005)**

During the public hearing, Darlene Carritt, R.D.H., commented that telemedicine has the potential to open some "doors", and that as of now some hospitals are connected to the dental college at UNMC to make use of this technology. She commented that this is another tool that can be used to increase access to dental care in our state. **(The Transcript of the Public Hearing, Page 31)**

During the public hearing, Dr. John Ahlschwede, D.D.S., informed the committee members that later this year (2005) the Nebraska Dental Association, using a team approach, will be initiating a "mission of mercy" to the western part of Nebraska. Dr. Ahlschwede stated that volunteers from Colorado, Kansas, and Iowa will be part of this effort, and that one of the goals of this project is to re-seed western Nebraska with new dental practices to meet the growing need in that part of our state. He stated that as this process continues, dental hygienists would be included as part of this re-seeding effort. He added that this represents the best way to address the growing need for care in underserved areas. **(The Transcript of the Public Hearing, Page 31)**

Dr. Jessica Meeske, D.D.S., stated that one option that the committee needs to consider is recommending mandatory water fluoridation for all communities in Nebraska. She also stated that the committee should consider making recommendations aimed at ensuring that there be a well-funded dental insurance program through the Nebraska Medicaid program.
(The Transcript of the Public Hearing, Page 62)

SOURCES OF INFORMATION

The following items identify documents used by the committee members during the review of the dental hygienists' proposal:

The Transcript of the Public Hearing

Sources provided by the Nebraska Dental Hygienists' Association:

The Dental Hygiene Proposal for a Change in Scope of Practice, By the Nebraska Dental Hygienists' Association, 2005

Maps Showing the Location of Dental Care Professionals in Nebraska:

- Actively Practicing Dentists by County, March, 2005, By the Office of Rural Health, Department of Health and Human Services Regulation and Licensure
- Licensed Dental Hygienists by County, October, 2004, By the Office of Rural Health, Department of Health and Human Services Regulation and Licensure
- Actively Practicing Dentists Over the Age of Sixty, March, 2005, By the Office of Rural Health, Department of Health and Human Services Regulation and Licensure

Inside the Access to Care Crisis: Volunteers Making a Difference, Access, December, 2004

Stateline Special: Less Restrictive Supervision Practice Makes Strides, Access, December, 2004

Impact of Targeted, School-Based Dental Sealant Programs in Reducing Racial and Economic Disparities in Sealant Prevalence Among Schoolchildren—Ohio, 1998-1999, U.S., Department of Health and Human Services, Centers for Disease Control, MMWR Weekly Report, August 17, 2001, Vol. 50, RR-14

Promoting Oral Health: Interventions for Preventing Dental Caries, Oral and Pharyngeal Cancers, and Sports-Related Craniofacial Injuries: A Report on Recommendations of the Task Force on Community Preventive Services, U.S. Department of Health and Human Services, Centers for Disease Control, MMWR Weekly Report, November 30, 2001, Vol. 50, RR 21

NIH Consensus Statement: Diagnosis and Management of Dental Caries Throughout Life, National Institutes of Health, Office of the Director, March 26-28, 2001, Vol. 18, number 1

Dental Hygiene Survey, Charles Parker, Ph.D., Wayne State College, 2004

Recommendations for Using Fluoride to Prevent and Control Dental Caries on the United States, U.S. Department of Health and Human Services, Centers for Disease Control, MMWR Weekly Report, August 17, 2001, Vol. 50, RR-14

Sources provided by the Nebraska Dental Association:

Map Showing the Location of Dental Offices in Nebraska, By the Nebraska Dental Association, 2005

Map Showing Nebraska's Federally Qualified Health Centers with Dental Clinics, October, 2003

Oral Health for All: Policy for Available, Accessible, and Acceptable Care

Table Showing Dental Hygienists and Dentists Per Capita by County in Nebraska, 2004, Prepared By the Nebraska Dental Association, 2005

The Economic Aspects of Unsupervised Private Hygiene Practice and Its Impact on Access to Care, ADA Health Policy Resources Center: Dental Health policy Series, 2005

Characteristics of Patients Seeking Care from Independent Dental Hygienists Practices, Journal of Public Health Dentistry, 1997, Vol. 57 (2); 76-81

Michigan Medicaid's Healthy Kids Dental Program: An Assessment of the First 12 Months, Journal of the American Dental Association, Vol. 134, November, 2003

Recommendations for Using Fluoride to Prevent and Control Dental Caries on the United States, U.S. Department of Health and Human Services, Centers for Disease Control, MMWR Weekly Report, August 17, 2001, Vol. 50, RR-14

Sources Provided by Individual Testifiers:

Policies and Operational Procedures of the General Practice Residency at the University of Nebraska Medical Center, Submitted By Dr. Timothy M. Durham, D.D.S.

OVERVIEW OF COMMITTEE PROCEEDINGS

The committee members met for the first time on **April 22, 2005** in Lincoln, at the Nebraska State Office Building. The committee members received an orientation regarding their duties and responsibilities under the Credentialing Review Program.

The committee members held their second meeting on **May 20, 2005** in Lincoln, in the State Office Building. The committee members thoroughly discussed the applicants' proposal and generated questions and issues that they wanted discussed further at the next phase of the review process, which is the public hearing.

The committee members met for their third meeting on **June 24, 2005** in Lincoln, in the Nebraska State Office Building. This meeting was the public hearing on the proposal during which both proponents and opponents were each given one half hour to present their testimony. Individual testifiers were given ten minutes to present their testimony. There was also a rebuttal period after the formal presentations for testifiers to address comments made by other testifiers during the formal presentation period. A public comment period lasting ten days beyond the date of the public hearing was also provided for, during which the committee members could receive additional comments in writing from interested parties.

The committee members met for their fourth meeting on **July 22, 2005** in Lincoln, in the Nebraska State Office Building. The committee members continued their discussion on the proposal, and then formulated their recommendations on the proposal.

The committee members met for their fifth meeting on **August 19, 2005** in Lincoln, in the State Office Building, and at this meeting the committee members made corrections to the draft report of recommendations, and then approved the corrected version of the report as the official document embodying the recommendations of the committee members on the proposal. The committee members then adjourned sine die.