Nebraska Credentialing Review Program

Manual of Procedures for Applicant Reviews and Directed Reviews

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES

Division of Public Health

Manual of Procedures

for

Review Bodies

Nebraska Department of Health and Human Services,
Division of Public Health

Nebraska Credentialing Review Program
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SECTION I: INTRODUCTION

The purpose of the Nebraska Credentialing Review Program is to establish health-related guidelines for the regulation of health professions which are either currently not regulated, or if regulated, seek to change their scope of practice. The Program advises the Nebraska Legislature regarding these kinds of credentialing issues in the State of Nebraska. In this manual, the term *credentialing review* refers to review processes for either unregulated health professions or regulated health professions that occur under the circumstances described above.

The program is prescribed by LB 407 (1985), the Nebraska Regulation of Health Professions Act (Revised 1988, 1993, 2012), now codified as Sections 71-6201 through 71-6230, R.S. supplement, 2012. The program is advisory to the Legislature, and action by that body is required before an occupation can be credentialed.

The goals of the Credentialing Review Program are:

1. To provide recommendations to the Legislature that represent sound, workable, and cost-effective ways to protect and promote the health, safety, and welfare of the citizens of Nebraska.
2. To conduct each review in an open, thorough, and impartial manner, acknowledging and respecting the professionalism and concern for the public welfare of all parties in the review.
3. To encourage representation and participation by members of the public as well as by health care providers and interest groups.
4. To use the statutory criteria to focus on the public health issues inherent in each proposal, while being aware that other issues will also be considered by the Legislature.
5. To maintain an open and positive atmosphere that values seeking solutions that benefit the public over political maneuvering, bargaining, and lobbying.

This manual also describes the duties, purposes, and organization of technical committees, as well as the criteria that will be used in the review process.

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SECTION II: PROGRAM PROCEDURES, ORGANIZATION, AND DUTIES IN APPLICANT REVIEWS

PROGRAM PROCEDURES FOR APPLICANT REVIEWS

A. **The nature of the credentialing review process:** Credentialing review is an executive process, not a legislative one. An executive review is conducted in a nonpolitical manner. The participants in such a process evaluate proposals in terms of objective technical criteria. Recommendations are made via a more narrow range of considerations. The legislative process, on the other hand, is political. In such a process, participants must take into account arguments and viewpoints that are only marginally related to objective technical criteria. Lobbying and expressions of constituent support inevitably emerge as major influences on decision-making in the legislative process. These procedures are generally not appropriate to an executive review.

B. **Who May Submit A Credentialing Application?**
1. Any organization, interest group, or individual may submit a credentialing application. Anyone submitting an application is referred to as an "applicant". Applicant organizations do not have to represent health occupations in order to submit an application.
2. Prior to submitting an application, an applicant must submit to the Director a letter of intent and a $500.00 application fee.

C. **The Letter of Intent**: The purpose of the letter of intent is to assist agency staff in determining whether the applicant group is eligible for review under the terms of the Nebraska Regulation of Health Professions Act. This Act states that only those occupations that can satisfy at least one of the following service-related criteria are eligible for review. These criteria are as follows:
1. Preventing physical, mental, or emotional injury or illness, excluding persons acting in their capacity as clergy;
2. Facilitating recovery from injury or illness;
3. Providing rehabilitative or continuing care following injury or illness;
4. Providing any other health service, health-related service, or environmental service which may be subject to regulation by the Division of Public Health of the Department of Health and Human Services.

D. **Instructions for the Submission of the Letter of Intent**: The Letter of Intent must be submitted to the Program address by the applicant group, and must contain the following information:
1. The name, address, and telephone number of the applicant group and any designated spokesperson for the group;
2. A brief summary of the change in credentialing sought by the applicants;
3. If the occupation does not obviously meet the definition of an eligible occupation cited; above, information sufficient to determine whether a review should be conducted;
4. The $500 fee or a request for waiver of the fee and the grounds for requesting waiver;
5. The date that submission of the completed application can be expected

E. **Review the Letter of Intent**: The Director may request additional information, or clarification of information beyond what is provided in the Letter of Intent in order to make the decision as to whether the occupation to be reviewed is eligible for review. The Director will notify the applicant

in writing within 15 days of the receipt of the letter of intent as to whether the proposed application is eligible for review.

F. **The $500 Fee**: Every Letter of Intent must be accompanied by a $500 fee unless the applicant is requesting that the fee be waived. The review will not begin until the fee has been received or waived. The fee will be returned if it is determined that the application is not eligible for review.

G. **Waiver of the $500 Fee**

1. The Director has the discretion of waiving some, or all, of the $500 fee. Circumstances under which a waiver may be granted include, but are not limited to, circumstances in which the Director determines that the application would be eligible for review and:
   a. The applicant group is an agency of state government;
   b. Members of the applicant group will not be materially affected by the implementation of the proposed regulation or change in scope of practice; or
   c. Payment of the application fee would impose unreasonable hardship on members of the applicant group.

2. If the applicant wishes to request waiver of the fee, the request and the justification for the request must be included in the Letter of Intent. If the request for waiver is denied, the fee must be submitted before any further action on the application can proceed.

H. **Consultation with the Office of Research, Policy & QI**: Program staff will arrange a consultation or consultations with the applicant groups or potential applicant groups, as needed, in order to assist them in clarifying their idea for a proposal, and for providing agency staff with information they need to determine whether or not a potential applicant group is eligible for review. Such consultations also are opportunities to clarify the Credentialing Review process. ***Applicants are strongly advised not to begin preparing the application that will contain their proposal until after such a consultation.***

I. **Submission of an Application**: Applicant groups should complete an application according to the instructions in Section V of this manual. Upon request, Department staff will review drafts of the application and recommend changes as necessary. However, an applicant group is not required to adopt such recommended changes. Once an application is in final form Department staff ask the applicants to submit 20 copies of the completed application to the Department for distribution to the members of the technical review committee appointed to review their proposal, as well as to the members of other review bodies.

J. **Amending an Application**: Once an application has been submitted to a technical review committee for review it the ideas therein, known collectively as the proposal, may be amended, but only with the approval of a majority of the members of the technical review committee, and then no later than during the committee meeting immediately prior to the public hearing.

K. **Time Period of the Review**: All reviews must be completed within twelve months of the date that an applicants' proposal is determined to be complete and reviewable. Because of the time necessary to write the application and to assemble the technical committee, ***applicants should submit the Letter of Intent no less than 15 months prior to the date by which they wish the review to be completed.***

L. **Critical Review of Proposals**: The credentialing review program requires that each proposal receive a critical review. The elements of a critical review are described on page 8 of this manual.

M. **Creation of, and Review Procedures of, Technical Review Committees**

1. The appointment process that leads to the creation of a technical committee to conduct the review of a proposal begins as soon as the idea for the proposal is ruled eligible for review and the $500 application fee has been received or waived.
   a. Two special pools have been created to assist the program in identifying volunteers appropriate for each review. One of these is the Credentialing Review Public Member Pool. The other is The Credentialing Review Health Professional Pool.
   b. Persons interested in volunteering to be members of technical committees will be asked to complete information forms. Upon return of these forms the Director of Public Health of the Department of Health and Human Services, with the advice of the State Board of Health, will appoint members of the technical committee.
   c. In accordance with N.R.S. Section 71-6224 the composition of each technical committee shall be governed by the following requirements:
      (1) Each committee must be appropriate to the proposal(s) under review
      (2) Each committee must consist of six appointed members plus one member of the Board of Health who serves as chairperson.
      (3) The chairperson shall not be a member of the applicant group, any health profession sought to be regulated by the proposal, or any health profession directly or indirectly affected by the proposal.
      (4) The total composition must be fair, impartial, and equitable.
      (5) No more than one member may be from the same regulated profession, the applicant group, or the profession sought to be regulated.
   d. Although individuals may be nominated by professional associations, each committee member is expected to exercise his or her independent and objective judgment during the review process. Committee members are not assumed to be official representatives of the group nominating them.

2. The technical committee review process consists of a sequence of at least six meetings. The meeting format typically includes the following:
   a. An organizational meeting at which credentialing review staff orients the committee members to their duties and responsibilities.
   b. Issue definition and discussion meetings at which the committee clarifies its understanding of the application.
   c. A preliminary recommendation meeting in which the committee takes action to formulate a preliminary recommendation. This preliminary recommendation is formulated at this time in order to set the agenda for the public hearing.
   d. A public hearing at which interested parties present testimony on the proposal to the committee, and, comment on the preliminary recommendation formulated by the committee at its previous meeting.
   e. A final recommendation meeting during which the committee members formulate their recommendations on the proposal and which forms the basis for a report drafted by staff and submitted to the committee members for their review.
   f. A final meeting at which the committee members make all corrections that they intend to make in the draft report, and then formally approve the report. This is typically, but not

necessarily, a teleconference.

3. Technical committee reports must be based upon a critical review of each proposal in terms of the statutory criteria contained in N.R.S. Section 71-6221. Each member of the committee brings a unique perspective to the review process, based upon his or her professional and educational background. This diversity in professional expertise facilitates the creation of reports based upon an exhaustive review of the health implications of each proposal. In particular, the technical committee is uniquely situated to address issues of concern to consumers of health care (e.g., cost, quality, access, availability, continuity of care, etc.) as they relate to the application.

4. Technical committees generate their reports in a two-step procedure, as follows:
   a. First, committee members take action on each of the statutory criteria;
   b. Then, committee members take action on the proposal in its entirety in a single 'up or down' vote. If there are any additional (ancillary) recommendations these are typically formulated after this two-step procedure has been completed;
   c. It is the second step of this procedure that determines whether a proposal is approved or not approved.

N. **Review of Proposals by the Board of Health**

1. The Board of Health review is typically a two-phase process:
   a. The first phase is the review by the Credentialing Review Committee of the Board of Health. This committee formulates a preliminary recommendation on the proposal that is advisory to the full Board of Health. This committee accomplishes this as follows: A preliminary recommendation is formulated after studying the proposal, the transcript of the public hearing, and the technical committee report on the proposal. This is done by taking action on each of the statutory criteria. These preliminary reports are solely for the purpose of assisting the full Board in making its recommendations and are not sent on to subsequent review bodies per se.
   b. Then, the full Board of Health formulates its recommendations after studying the report of the technical committee and the report of its Credentialing Review Committee. The full Board has the option of formulating its recommendations via a single vote on whether to approve the recommendations of its committee, or, it may first take action on each of the four statutory criteria and then take an 'up or down' vote on the entire proposal. The full Board may also approve additional, ancillary recommendations of its own if it so desires. Of the two Board documents created, only the report of the full Board represents the official report of Board of Health recommendations on a proposal.

2. The Board of Health brings a unique perspective to the review process. The Board is composed of health care professionals whose knowledge and experience give them the ability to review each proposal in terms of current trends in health care. The Board can also contribute a comparative and historical perspective that the technical committees are unlikely to possess, given their relatively brief existence. The Board reviews all proposals that go through the credentialing review process. Consequently, the board develops a more global perspective on the process than is the case with the technical committees. The Board's responsibility is to bring this global perspective to bear in its reviews of each proposal.

O. **Review of Proposals by the Director of the Division of Public Health**
The Director of Public Health is required to prepare a report on each proposal. The Director's report provides the Legislature with reviews that are at least partially based upon an administrative analysis of credentialing proposals. The report reflects consideration of the potential fiscal impact of proposals to a much greater degree than do the other reports, as well as the cumulative effect of multiple proposals and the effect of a proposal on current regulatory administrative systems. Directors are required to utilize the statutory criteria in order to formulate their recommendations on proposals.

CHARGE TO TECHNICAL REVIEW COMMITTEES FOR APPLICANT REVIEWS

Formed: Pursuant to Section 71-6224, R.S. Supp. 1985, 1993, and 2012

Chair Selection: Appointed by the Department; must be a member of the Board of Health

Membership: Seven members

Applicant/Consumer/Professional/interested party balance; Members are appointed by the Director of Public Health of the Department of Health and Human Services subject to the advice of the Board of Health.

Interests and qualifications are considerations in the appointment process.

Purpose: To review applications for the initial credentialing of health occupations or the change in scope of practice of credentialed health occupations; to apply objective criteria to evidence submitted to determine whether the proposal is necessary to protect the public; to maintain at all times a fair, balanced, and objective attitude toward the proposals and material being considered and to reach conclusions based solely upon an objective appraisal; and to prepare a report to the Board of Health, the Director of Public Health, and the Legislature comprising all of the findings, conclusions, and recommendations resulting from the process.

Activities: Focus at all times on the protection of the public

Review applications and other appropriate literature and information concerning each proposal being considered

Conduct public hearing(s) on the proposal(s) under review

Review testimony and written documentation

Create a report embodying committee recommendations on proposals

Authority: Responsible to the Director of Public Health, serving as an advisory body to the Board of Health and this Director

Duration: All committees disband sine die when they have submitted a report on their recommendations to the Board of Health and to the Director. Typically, each committee is in existence for four to six months; all reviews must be completed within twelve months of the receipt of the completed proposal.

ORGANIZATION AND DUTIES OF THE TECHNICAL REVIEW COMMITTEES IN APPLICANT REVIEWS

A. **Introduction**: The purpose of technical committees in the credentialing review process is to advise the Board of Health and the Director as to the merits of the proposal(s) they are appointed to review. This advice must be based upon an objective examination of pertinent testimony, research, and data. However, objectivity in the review process is not the only requirement for those who participate on technical committees. The ability to understand the complex and technical information presented by applicant groups is also important. At least some of the members will be selected because of their professional expertise in areas related to health care.

B. **The Credentialing Review Process**

1. The Role of Technical Committees in the Review Process:
   The specific duties and responsibilities of technical committees include:
   (1) Conducting a critical review of the proposal and related material. A critical credentialing review consists of an examination of the following issues:
      (a) Is the proposal necessary?
      (b) Is there a need for additional information beyond what the proposal presents?
      (c) Are there viable alternatives to the proposal?
      (d) Could the proposal be significantly improved so as to protect public health more effectively or more efficiently?
      (e) Are the criteria met?
      (f) Are there any other recommendations to be made pertinent to the issues raised by the proposal?

   (2) Conducting public hearings for the various proposals under credentialing review:
   The purpose of the hearings is to obtain testimony and/or written information relevant to a determination of whether proposals meet statutory criteria.
   (3) Reviewing the testimony and documents presented at the hearing or as follow-up from the hearing
   (4) Determining whether the proposal meets statutory criteria
   (5) Providing guidance and advice to the Legislature and the Director on how best to protect public health in the area under consideration
   (6) Providing general guidance on legislative matters pertinent to the issues under review to all parties to a given review, if appropriate. However, the committee is not charged with suggesting specific legislative language, assisting in the drafting of a bill, or any other direct action beyond the giving of general advice
   (7) Submitting a report to the Board of Health and the Director detailing the recommendations of the committee
   (8) Individual committee members are asked to provide liaison between the full committee and those professional groups with which they may be affiliated

2. The Role of Staff in Facilitating the Work the Technical Review Committees:
   a. Staff must provide program information, instructions, and such other materials as are necessary for the committees to carry out their duties and responsibilities. Staff may also provide any other information upon the request of committee members to assist them in carrying out their duties.

b. Staff must compile and file all documents required by the committees in the formulation of their recommendations and advice.
c. Staff must draft and edit technical review committee reports that are to be submitted to other public bodies and officials, subject to technical review committee approval.
d. Staff must assist all parties in the review equally and impartially.
e. Staff must advise the technical committee on procedures, appropriate statutes and regulations, and the application of criteria during the review.

3. The Role of the Applicant Group in Assisting the Technical Review Committees:
   a. The applicant group must provide, to the extent possible, all information requested by the technical committee. Copies must be provided for each committee member.
   b. The applicant group must cooperate with the committee as necessary to interpret and clarify the proposal and supporting material.

SECTION III: PROGRAM PROCEDURES, ORGANIZATION, AND DUTIES IN DIRECTED REVIEWS

PROGRAM PROCEDURES FOR DIRECTED REVIEWS

A. The Nature of the Credentialing Review Process:
Credentialing review is an executive process, rather than a legislative process. An executive review is conducted in a nonpolitical manner. Recommendations are made in terms of the public interest. The legislative process, on the other hand, is a political process. In the latter process, participants must take into account arguments and viewpoints that are often not related to objective analysis of evidence. Lobbying and expressions of constituent support inevitably emerge as major influences on decision-making in the legislative process. These procedures are usually not appropriate in an executive review.

B. Directed Reviews are initiated by a request for a review from the Director of Public Health and the Chairperson of the Legislative Health and Human Services Committee, or by a request from the Chairperson of the Legislative Health and Human Services Committee in consultation with the members of this Legislative Committee, and can only be initiated when no appropriate person or group is available to undertake the tasks necessary to develop an application and defend it in the credentialing review process. The following items briefly describe the process by which a directed review is conducted. Directed reviews differ from other types of credentialing reviews in the following ways:

1. There is neither an applicant group nor a proposal.
2. The technical committee functions as a task force in that its role is to develop an idea or proposal for the other review bodies to review.
3. In a *directed review*, the criteria are part of the informational context within which the committee formulates its proposal. Subsequent review bodies take action on the criteria by voting on them during the time when recommendations are being formulated.
4. The State Board of Health and the Director of Public Health review proposals that are created by technical committees under this process. Their work proceeds in the same manner as in other types of reviews.

C. Time Period of the Review: All reviews must be completed within twelve months from the date that the charge for the directed review is issued.

D. Critical Review of Issues: The credentialing review program requires that each issue under review be reviewed critically in accordance with the elements of a critical review as described on page 14 of this manual.

E. Creation of, and Review Procedures of, Technical Review Committees:

1. The process leading to the appointment of a technical review committee can begin as soon as both the Director of Public Health and the Chairperson of the Health and Human Services Committee of the Legislature agree that such a review is needed.
    a. Two special pools have been created to assist the program in identifying volunteers appropriate for each review. One of these is a Credentialing Review Public Member Pool. The other is a Credentialing Review Health Care Professional Pool.
    b. Persons interested in volunteering to be members of technical committees will be asked to complete information forms. Upon return of these forms the Director, with the advice of the State Board of Health, will appoint members of the technical committee.

c. In accordance with Section 71-6224, the composition of each technical committee shall be governed by the following requirements:
   (1) Each committee must be appropriate to the issue or issues under review.
   (2) Each committee must consist of six appointed members plus one member of the State Board of Health who serves as chairperson.
   (3) The chairperson must be a member of the State Board of Health and must not be a member of any profession that would be directly affected by the outcome of the review.
   (4) The total composition must be fair, impartial, and equitable.
   (5) No more than one member may be from the same health profession.

d. Although individuals may be nominated by professional associations, each committee member is expected to exercise his or her independent and objective judgment during the review process. Committee members are not assumed to be official representatives of the group nominating them.

e. In a directed review the composition of the technical review committee may be included in the charge (Page 13).

2. The technical committee review process consists of at least six meetings. Typically, the meeting format for directed reviews is as follows:
   a. Orientation to the review process followed by the presentation of information and viewpoints on the issue or issues to be reviewed by interested parties and the general public.
   b. Discussion on information received at and since the previous meeting, and if the committee is prepared, beginning of the effort to formulate a preliminary proposal on the issue/issues.
   c. Completion of a preliminary proposal on the issue/issues of concern.
   d. Public hearing on the proposal, at which interested parties present testimony to the committee on the proposal.
   e. The formulation of any final changes to the proposal, if any, followed by the formulation of any additional ancillary recommendations.
   f. Final editing including corrections and approval of the written report of recommendations. Typically, but not necessarily, this is a teleconference.

3. Technical committee reports must be based upon a critical review of each issue under review in terms of the statutory criteria contained in N.R.S. Section 71-6221. Each member of the committee brings a unique perspective to the review process, based upon his or her professional and educational background. This diversity of expertise facilitates the creation of reports based upon an exhaustive review of the health implications of the issues under review. In particular, the technical committee is uniquely situated to address issues of concern to consumers of heath care (e.g., cost, quality, access, availability, continuity of care, etc.).

4. Technical committees in a directed review must consider each of the statutory criteria in formulating their proposal.

F. Review of Technical Committee Proposals by the State Board of Health

1. The State Board of Health review is typically a two-phase process:
   a) The first phase is the review by the Credentialing Review Committee of the Board. This committee formulates a recommendation on the proposal of the technical committee, thereby advising the full Board of Health. This committee accomplishes this as follows:

      A preliminary recommendation is formulated after studying the transcript of the public hearing and the technical committee report on the proposal. This committee takes action on each of the statutory criteria. These preliminary reports are solely for the purpose of assisting the full Board in making its recommendations, and are not sent on to subsequent review bodies per se.
   b) Then, the full State Board of Health formulates its recommendation after studying the report of the technical review committee and the report of its Credentialing Review Committee. The full Board has the option of formulating its recommendations via a single vote, or by taking action on each of the statutory criteria. The full Board may also approve additional, ancillary recommendations of its own if it so desires. Of the two Board documents created, only the report of the full Board is sent on to subsequent review bodies.

2. The State Board of Health brings a unique perspective to the review process. The Board is composed of health care professionals whose knowledge and experience give them the ability to review each proposal in terms of current trends in health care. The Board members also contribute a comparative and historical perspective to the review process, and because they review all proposals that go through the credentialing review process, the Board members develop a more global perspective on the process than is the case with the technical committee members whose experience and knowledge is relatively more focused on a specific set of issues. The Board's responsibility is to bring this global perspective to bear in its reviews of each individual proposal.

G. Review of Issues by the Director of the Division of Public Health

The Director of Public Health of the Department of Health and Human Services is required to prepare a report on each proposal. The Director's report provides the Legislature with information that is at least partially based upon an administrative analysis of credentialing proposals. The Director's report considers the potential fiscal impact of proposals to a much greater degree than do the other reports, as well as the cumulative effect of multiple proposals and the effect of a proposal on current regulatory administrative systems. Director’s reports must also utilize the statutory criteria of the Program.

CHARGE TO TECHNICAL REVIEW COMMITTEES
FOR DIRECTED REVIEWS

Formed: Pursuant to Section 71-6224, R.S. Supp. 1985, 1993, and 2012

Chair Selection: Appointed by the Department of Health; Must be a member of the State Board of Health.

Membership: Seven members; Consumer/professional/interested party balance; Members are appointed by the Director of Public Health of the Department of Health and Human Services with the advice of the State Board of Health. Interests and qualifications are considerations in the selection process.

Purpose: To study a credentialing or credentialing-related issue that the Director of the Division of Public Health and the Chairperson of the Health and Human Services Committee have directed the program to study; to prepare a report on each issue under review to the State Board of Health, the Director of Public Health, and the Legislature comprising all of the findings, conclusions, and proposed solutions resulting from the process, taking into consideration the appropriate statutory criteria of the program; to maintain at all times a fair, balanced, and objective attitude regarding the issues under review, the concerns of various interested parties regarding these issues, and any documents studied as part of the review process.

The report embodying conclusions and recommendations in effect becomes a proposal upon which subsequent review bodies will issue their own reports**.**

Activities: Focus at all times on the protection of the public

Study all documents, testimony, or other information submitted regarding the issue or issues under review

Conduct public hearing(s) on issues under review

Review testimony and written documentation

Create reports embodying committee recommendations on issues under review

Authority: Responsible to the Director of Public Health of the Department of Health and Human Services, serving as an advisory body to the State Board of Health and the Director of Public Health.

Duration: All committees disband sine die when they have submitted a report on their recommendations to the State Board of Health and to the Director of Public Health. Normally, each committee is in existence for four to six months; all reviews must be completed within twelve-months of receipt of the completed application.

ORGANIZATION AND DUTIES OF TECHNICAL REVIEW COMMITTEES IN DIRECTED REVIEWS

A. **Introduction:** The purpose of technical committees in directed reviews is to formulate a policy option or options regarding an issue or issues for the State Board of Health, the Director, and the Legislature. This takes the form of specific proposed actions to solve a problem or problems. Recommended actions must be based upon an objective examination of pertinent testimony, research, and/or data.

B. **The Credentialing Review Process**

1. The Role of Technical Committees in the Review Process:
   The specific duties and responsibilities of technical committees include:
   (1) Conducting a critical review of the issue or issues and related documents, testimony, and other information submitted on this issue. A critical review in this context consists of the following:
      a. Ascertaining the facts regarding the issue or issues in question.
      b. Synthesizing the information received during a review so as to develop understanding of the issue or issues.
      c. Clearly defining the nature of the problem or problems under review based upon the synthesis of the evidence presented.
      d. Approaching the problem or problems from a problem-solving perspective, and formulating a recommended course of action or actions to assist lawmakers in the development of policy pertinent to the issue or issues in question.
      e. Formulating proposals in the context of the appropriate set of statutory criteria. This helps maintain the focus on public health, and assists the committee members in creating proposals that are reviewable by subsequent credentialing review bodies.
      f. Maintaining at all times a focus on public protection.

   (2) Conducting a public hearing on the various issues under review.
   The purpose of hearings in directed reviews is to generate information that is helpful to a technical committee as it attempts to create policy options for subsequent review bodies.
   (3) Reviewing the testimony and documents presented at the public hearing.
   (4) Ensuring that any recommendation or recommendations that emerge from the work of a committee are framed in such a way as to be reviewable in terms of the criteria of the credentialing program.
   (5) Providing guidance and advice to the Legislature and the Director of Public Health on how best to protect public health in the area under consideration.
   (6) Providing general guidance to all parties on legislative matters pertinent to the issues under review, if appropriate. However, the committee is not charged with suggesting specific legislative language, assisting with the drafting of a bill, or any other direct action beyond the giving of advice and suggestions.
   (7) Submitting a report to the State Board of Health and the Director of Public Health detailing the recommendations of the committee.
   (8) Individual committee members are expected to provide liaison between the full committee and those professional groups with which they may be affiliated.

2. The Role of Staff in Facilitating the Work of the Technical Committees
    a. Staff must provide program information, instructions, and such other materials as are necessary for the committees to carry out their duties and responsibilities. Staff may also provide any other information upon the request of committee members to assist them in carrying out their duties.
    b. Staff must compile and file all documents required by the committees in the formulation of their recommendations and advice.
    c. Staff must draft and edit all committee reports subject to committee approval.
    d. Staff must assist all parties in the review equally and impartially.
    e. Staff must advise the technical committee on procedures, appropriate statutes and regulations, and the application of the criteria during reviews.

SECTION IV: CRITERIA AND EVIDENCE FOR THE CREDENTIALING REVIEW PROGRAM

***Purpose*:** The statutory criteria were established as a means of evaluating proposals submitted for credentialing review. The purpose of such evaluation is to determine objectively whether there is, in fact, a need to protect the public by regulating the practice in question or by making changes in regulatory practices that are already in place. A technical committee in a directed review needs to be aware that it is functioning like an applicant group in that it is creating an idea or ideas in the area of credentialing to which other review bodies will be applying statutory criteria in order to evaluate these ideas.

Evaluation of Proposals for Initial Credentialing of the Members of Unregulated Health Professionals Currently Allowed to Engage in Full Practice

1. **Criterion 1** – Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public.

2. **Criterion 2** – Regulation of the health profession does not impose significant new economic hardship on the public, significantly diminish the supply of qualified practitioners, or otherwise create barriers to service that are not consistent with the public welfare and interest.

3. **Criterion 3** – The public needs assurance from the State of initial and continuing professional ability.

4. **Criterion 4** – The public cannot be protected by a more effective alternative.

Evaluation of Proposals for Initial Credentialing of Health Professionals Prohibited from Full Practice

1. **Criterion 1** – Absence of a separate regulated profession creates a situation of harm or danger to the health, safety, or welfare of the public.

2. **Criterion 2** – Creation of a separate regulated profession would not create a significant new danger to the health, safety, or welfare of the public.

3. **Criterion 3** – Creation of a separate regulated profession would benefit the health, safety, or welfare of the public.

4. **Criterion 4** – The public cannot be protected by a more effective alternative.

Evaluation of Proposals for Change in Scope of Practice

1. **Criterion 1** – The health, safety, and welfare of the public are inadequately addressed by the present scope of practice or limitations on the scope of practice.

2. **Criterion 2** – Enactment of the proposed change in scope of practice would benefit the health, safety or welfare of the public.

3. **Criterion 3** – The proposed change in scope of practice does not create a significant new danger to the health, safety or welfare of the public.

4. **Criterion 4** – The current education and training for the health profession adequately prepares practitioners to perform the new skill or service.

5. **Criterion 5** – There are appropriate post-professional programs and competence assessment measures available to assure that the practitioner is competent to perform the new skill or service in a safe manner.

6. **Criterion 6** – There are adequate measures to assess whether practitioners are competently performing the new skill or service and to take appropriate action if they are not performing competently.

Detailed information regarding the interpretation and application of each of these criteria is contained in the rules and regulations governing the Credentialing Review Program.

Evidence

Many types of evidence may be cited in support of, or in opposition to, a proposal. Much of it may be, or appears to be, in conflict with other evidence. Review bodies must use the background, knowledge, and skills of their members to evaluate the evidence presented to them and reach a conclusion based on the evidence within the context of the appropriate criteria.

In general, the greatest weight should be given to evidence that has been generated by unbiased sources, sources that explicitly take into account the protection of the public and which provide statistical or scientific data to support conclusions. If applicable, studies from peer reviewed journals are encouraged. In the absence or inapplicability of such evidence, review bodies should seek information from published sources directly relevant to the criteria from which generalizations may be made.

While individual experiences and anecdotes represent valid events, they do not provide information that, standing alone, can justify a change in public policy. Such evidence should only be considered to the extent that it reinforces more objective evidence.

SECTION V: INSTRUCTIONS TO APPLICANT GROUPS ON CREATING A REVIEWABLE PROPOSAL

A. General Instructions

1. A complete application consists of a cover page and the narrative section containing all material specified in this section. Supporting documents, detailed studies, etc. may be included as appendices to the narrative. Incomplete or unsigned applications will not be accepted for review.

2. One copy of the complete application should be submitted to the Department initially. As soon as the Department determines that it is complete and accepted for review, 20 additional copies shall be submitted.

3. It is recommended that applicants contact the Division of Public Health, Office of Research, Policy and Quality Improvement for assistance in completing the application, at 402/471-6515 or at ron.briel@nebraska.gov.

B. Informational Requirements for the Narrative Section

The questions asked in this application are organized into two major sections. The first group of questions (1-20) establishes basic facts about the applicants' group and the proposal. The second group of questions (1-9) explores the issues pertinent to the idea or ideas in the applicants' proposal. The narrative section and supporting documents should contain the information necessary to define the current practice situation of the occupation for which application is being made in order to identify the changes being proposed, to determine whether these proposed changes are justified, and to identify the possible impact of the proposal if it were to become part of Nebraska State law.

1. Information items should be addressed in the order in which they are listed. Each question in part C and its number should be reproduced in the narrative and underlined or otherwise clearly distinguished. The response should follow immediately.

2. Information supplied must, insofar as possible, be factual in nature and subject to independent verification. Data sources must be cited. Opinions, conclusions, and value judgments should be identified as such.

3. The narrative statement should be limited to summary data and exposition necessary for the discussion. Extensive supporting data that would tend to interrupt the narrative should be placed in an appendix, and clearly referenced in the narrative statement.

4. Items not applicable to a particular group should be so noted in the narrative, along with a brief statement of why the item does not apply.

5. If information is not readily available to address an item, a notation to this effect should be made in the narrative, along with a brief statement of why the information is not available, if known. An attempt should be made to provide this information at a later date.

6. If the application anticipates credentialing or changing the scope of practice of more than one level of practitioner, a response should be provided for each level for items where this information is applicable.

7. The copy should be continuous (without blank pages or large spaces) and the material should be readily reproducible. All material should be on standard 8 x 11-inch paper, wherever possible. Pages should be numbered consecutively. Applicants are encouraged to submit an electronic version of their proposal with the information in a MS Word format.

8. It is the responsibility of the applicant to provide all information necessary for the technical committee to complete the review process and make recommendations. The technical committee may request the applicant to provide additional information if, in the opinion of the committee, such information is necessary for it to conclude its business.

C. **Questions Comprising an Application for Credentialing Review**

Description of the Applicant Group and its Proposal

1. Provide the following information for the applicant group(s):
   a. name, address, telephone number, e-mail address, and website of the applicant group in Nebraska, and any national parent organization;
   b. composition of the group and approximate number of members in Nebraska; and
   c. relationship of the group to the occupation dealt with in the application.

2. Identify by title, address, telephone number, e-mail address, and website of any other groups, associations, or organizations in Nebraska whose membership consists of any of the following:
   a. members of the same occupation or profession as that of the applicant group;
   b. members of the occupation dealt with in the application;
   c. employers of the occupation dealt with in the application;
   d. practitioners of the occupations similar to or working closely with members of the occupation dealt with in the application;
   e. educators or trainers of prospective members of the occupation dealt with in the application;
   f. citizens familiar with or utilizing the services of the occupation dealt with in the application (e.g., advocacy groups, patient rights groups, volunteer agencies for particular diseases or conditions, etc.); and
   g. any other group that would have an interest in the application.

3. If the profession is currently credentialed in Nebraska, provide the current scope of practice of this occupation as set forth in state statutes. If a change in this scope of practice is being requested, identify that change. This description of the desired scope of practice constitutes the proposal. The application comprises the documentation and other materials that are provided in support of the proposal.

4. If the profession is not currently credentialed in Nebraska, describe the proposed credential and the proposed scope of practice, and / or the proposed functions and procedures of the group to be reviewed. This description of the desired scope of practice and the proposed

credential constitute the core of the proposal. Also, please describe how the proposal would be administered. The application comprises the documentation and other materials that are provided in support of the proposal.

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

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

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

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

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

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

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

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

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

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

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

16. Is a prescription or order from a practitioner of another health occupation necessary in order for services to be provided?
17. How is continuing competence of credentialed practitioners evaluated?

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

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

Additional Questions an Applicant Group Must Answer about their Proposal

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

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

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

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

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

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

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

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

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

August 21, 2015