DIRECTOR'S REPORT ON THE PROPOSAL TO EXPAND THE SCOPE OF PRACTICE OF OPTOMETRISTS

From: **Joann Schaefer, M.D., Chief Medical Officer**
Director, Division of Public Health, Department of Health and Human Services

To: **The Speaker of the Nebraska Legislature**
The Chairperson of the Executive Board of the Legislature
The Chairperson and Members of the Legislative Health and Human Services Committee

Date: **May 18, 2010**

Introduction

The Regulation of Health Professions Act provides for an administrative process to review and present to the Nebraska Legislature recommendations regarding change in scope of practice of licensed health care professionals and the establishment of new credentialing for currently unregulated professions. This process (as defined in Neb. Rev. Stat., Section 71-6201, et. seq.) is commonly referred to as a credentialing review. The Department of Health and Human Services Division of Public Health administers the Act. As Director of this Division, I am presenting this report under the authority of this Act.

Description of the Issues Under Review

The applicant group is the Nebraska Optometric Association. The issue under review is whether optometrists should be allowed to perform minor surgical procedures and prescribe pharmaceutical agents to treat eye diseases in Nebraska.

Summary of Technical Committee and Board of Health Recommendations

Both the technical committee and the Board of Health recommended against approval of the proposal.

The Director's Recommendations on the Proposal Using the Four Criteria of the Credentialing Review Statute

I am also recommending against approval of the proposal. More detailed comments regarding my recommendations will be made by using the four criteria of the Credentialing Review Program that pertain to changes in the present scope of practice.

Criterion one: The present scope of practice or limitations on the scope of practice create 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.

The services in question are currently provided by physicians and primarily by ophthalmologists. The applicants provided no compelling information to indicate that there is a significant problem in Nebraska regarding access to these services. Applicant group assertions that rural patients are experiencing difficulties in accessing the care of ophthalmology practitioners were not supported by

data or research. This applicant argument has been countered by information from other parties indicating that ophthalmological clinics have been established in medically underserved areas in an attempt to enhance rural access to care. Although these clinics do not provide perfect access to this care, they do provide reasonable access to it. More than ninety percent of Nebraskans live within thirty miles of at least one of these clinics. This information indicates that the claim that there is inadequate access to eye care in underserved areas of the state has not been demonstrated. Therefore I find that this criterion has not been satisfied.

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

In order to address this criterion it is first necessary to assess the amount of education and training that optometrists already possess and to determine whether it provides a sufficient base upon which to add new services. Information available to me regarding current optometric education and training indicates that it is not sufficient to allow the expanded scope of practice which they seek. The public needs assurance that optometrists possess sufficient education and training to know and understand the systemic impacts of the pharmaceuticals they might prescribe, and I have seen insufficient information to indicate that they currently receive such training. The public needs assurance that optometrists are educated appropriately to perform the surgical procedures they are seeking to add. Again, I have seen insufficient information that indicates that they possess the necessary knowledge or skill to perform any surgical procedures safely and effectively. Available documentation on optometric education and training does not include training on surgical procedures or surgical technologies per se. Additionally, expanding optometric practice into surgical procedures raises other concerns. Do optometrists possess sufficient education and training to diagnose conditions which might surround the existence of superficial "lumps and bumps" on the eye or lids such as carcinomas? The public would need assurance that optometrists possess such diagnostic abilities.

Ophthalmologists receive much more training in the utilization of pharmaceuticals and in performing surgical procedures. Additionally, they learn under the close supervision of well-trained and experienced physicians who provide extensive one-on-one mentoring for their students. No information was provided to clarify how or where any additional preparation would be provided for optometrists, as there are no optometric schools in Nebraska. There has been no information presented by the applicants indicating that training comparable to that received by ophthalmologists occurs anywhere in optometric education and training.

The applicants assert, and perhaps rightly so, that optometrists have a greater knowledge of the eye than most primary care physicians. But knowledge of the eye itself is not the principal issue here. The surgical scope being sought has been presented as consisting of "minor" procedures. But any procedures involving penetrating human skin have historically been restricted to only the most rigorously trained individuals, and for good reason. The repeated and closely supervised training in surgery that every physician receives has no parallel in present or proposed optometric education. Nor does any such education adequately prepare an optometrist for complex tasks such as identifying tissue needing biopsy, recognizing melanomas, and injecting local anesthetics. These skills, and many more, are just as important in eye care as is knowledge of the eye per se.

The pharmacological parameters of this proposal are unnecessarily vague. Failure to specify conditions, drugs, or routes of delivery leaves the optometrists with a large range of choices to make, and the pharmacological preparation of this profession is simply not adequate to allow such a wide authority of scope. For these reasons I find that the second criterion is not satisfied.

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

The only possible benefit of the current proposal would be that it holds out promise of providing timely and less costly access to the treatment of superficial eye conditions and diseases for patients living in remote areas. Unfortunately, the proposal seeks to make changes that would likely take the profession beyond what it can provide safely and effectively. Some might say that these shortcomings of the proposal should be overlooked out of concern for the access to care needs of patients residing in medically underserved areas. My response to such arguments is that this would be tantamount to advocating a lower standard of care for patients who live in rural areas than is the case for the rest of the population. I do not believe that this is an acceptable approach to making health care policy.

If the proposal were scaled back so as to focus on a few specific services, some benefits to the public could be identified. The proposal could be refocused exclusively on emergency care, for example. Practice protocols could be developed that would enable optometrists to manage eye care emergencies in situations where timely access to an ophthalmologist is not possible. However, the fact still remains that the applicants provided no compelling data to support their contention that there is a need for such services in the first place. There needs to be compelling evidence that there is a public need for such an expansion of services. Therefore, I find that this criterion is not satisfied.

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

It is difficult to argue that the proposal could be a cost-effective means of addressing the access to care issues identified when there are such serious concerns about its safety and effectiveness. It is also difficult to make such an argument in the absence of compelling information indicating a need for the proposal in the first place. Additionally, the uncertainties regarding the ability of the proposed education and training to successfully address concerns about safety and effectiveness raise doubts about the ability of the proposal to appropriately and successfully address the access to care problems under discussion. Finally, the proposal's lack of clarity regarding the exact services optometrists would or would not be allowed to provide raises more concerns about its ability to safely and effectively address the needs of Nebraskans. For these reasons I cannot recommend in favor of the proposal on this criterion.

In summary, I do not find any of the four statutory criteria to have been met, and I hereby recommend against the applicants' proposal.

Future Direction:

In making this finding I do not intend to imply that there could be no rational extension of the optometric scope of practice. A proposal that identified very specific procedures, backed by rigorous clinical training and supervised experience, might well prove more acceptable in the future. Optometrists and ophthalmologists work in collaboration all across Nebraska. It is not unreasonable to believe that they could jointly identify scope enhancements that would both benefit the public and give assurance of appropriate education and training.