

Minutes of the Second Meeting of the Nurse Practitioners Technical Review Committee

April 11, 2025

3:00 p.m. to 5:00 p.m.

Members Participating

Jeffrey Wienke Jr. DPM, CWSP (Chair)

Christine Chasek, PhD, LIMHP, LADC

All Dering-Anderson, BA, PharmD, FaAIM, FAPhA

Darrell Klein, J.D.

Wendy McCarty, Ed. D

Stacy Waldron, PhD

Members Absent

Joshua Schlote B.A.S., LVT, VTES

Staff

Maggie Mills

I. Call to Order: Open Meetings Law, Approval of Agenda, Approval of Minutes

Chairperson Wienke called the meeting to order at 3:00 p.m. Members of the committee and the public were made aware of the Open Meetings Law, as they were both posted online and in the meeting room. A roll call vote was taken, five members of the committee were present and two were absent. A sixth member joined the meeting. Dr. Wienke asked for a motion to approve the minutes from the last meeting, to which Dr. Dering-Anderson made a motion, and seconded by Dr. Waldron. Dr. Wienke asked for a motion to approve the agenda, to which Dr. Chasek made a motion, seconded by Dr. Dering-Anderson.

II. Follow-up on information request from Technical Review Committee

The applicant group began by reintroducing themselves to the Technical Review Committee. Karen Wenner, APRN, DNP reiterated the goals of this 407. Those being to improve access to specialty care in Nebraska, to remove barriers to allow nurse practitioners to practice to the full extent of education and training, and to define Nebraska state regulated training and education requirements for fluoroscopy. Dr. Wenner added that under current restrictions, nurse practitioners are not recognized as a "licensed practitioner" as identified by the Nebraska Board of Radiography. Whereas a "licensed practitioner" may perform and supervise fluoroscopy without any further training requirements set forth by the state. She added that physician assistants are not specifically named in the statute but because they are under the Board of Medicine they are included by default. CRNAs did not modify the statute, but they added their own chapter for their specifications.

Dr. Wenner discussed the term supervision as it pertains to a medical radiographer explaining that they can perform diagnostic studies based upon order from a healthcare provider (e.g., x-ray, CT, nuclear medicine studies, ultrasound) however they cannot perform fluoroscopy without a licensed practitioner present. Conversely, a licensed practitioner may perform fluoroscopy independently or in conjunction with/ directing or supervising a medical radiographer. Medical radiographers typically will operate the larger C-arm, not the mini-C-arm or in specialty settings. CRNAs are required to have a medical radiographer operating the fluoroscopy machine with their supervision. CRNAs were not added as “licensed practitioners” due to conflicting recommendations and discussions during their 407 review. The applicant group included the Director’s recommendations from the CRNA’s 407 review, stating that the CRNAs should not be added to the list of exempt professionals under the revised statute. The document indicated that they felt the proposal was safe and there were already standards in place to ensure compliance and competency requirements with the hospital, clinic, or other owner of the fluoroscopy equipment.

Dr. Wenner went into why they feel the need for this proposal. Those reasons include shortages of specialty services especially in rural communities, it limits patient access to care, and a lack of ability to recruit trained specialists to Nebraska. Because of these restrictions there are unnecessary work arounds, prolonged procedures, repeat sedation/ x-rays, and patients must travel for specialized procedures.

Dr. Wenner explained that there was a question regarding critical access to ERs and how this would improve. She went on to discuss that there are multiple sites where a nurse practitioner is the sole provider in the emergency department. Nurse practitioners are hired in the same role as physician assistants but cannot use fluoroscopy when indicated. In their presentation, they included a map of the sixty-two critical access hospitals in Nebraska. The map shows that there are limited critical access hospitals in the west-central region of the state. In Kimball, there is a solo ER provider meaning that there are nurse practitioners that will be there alone.

Regarding access to specialty care, there is an increasing demand for procedures and specialty care, while the shortage of medical providers continues to worsen. With the aging population, especially in Nebraska, there is greater need for access to orthopedics and urology etc. and some of the greatest needs come from the deserts within the state. Driving long distances is often not realistic for these people to access the care they need. In the state of Nebraska there are 3,951 nurse practitioners compared to the 1,150 physician assistants. If a facility is only hiring physician assistants, then it would diminish access to specialty care, as there are fewer. From that, nurse practitioners are uniquely situated to work and continue providing care in the hospitals and communities they started at as a registered nurse. Making those connections with the communities and seeing the disparities in care allows them to address those needs once they come back after receiving their higher education.

Dr. Wenner went on to explain the risk mitigation in terms of med spas. Under Title 180- Control of Radiation, Chapter 2- Registration of Radiation Generating Equipment Facilities and Services the equipment must be registered, used in appropriate places, and approved by DHHS. Member of the applicant group, Jillian Negri, APRN, DNP, added that there are currently twenty-two states that allow nurse practitioners to practice fluoroscopy. Oregon, Colorado, Wyoming, Kansas, and South Dakota are among those twenty-two states. In Dr. Negri's research she looked through different med spas in those states and did not find anything relating to the use of fluoroscopy. Dr. Wenner continued, under Radiation Control Act, you must apply any time you have any radiation-generating equipment. She added that there are 120 pages of the specifications and requirements to operate and have this kind of machinery to meet the safety standards to protect the public. One of the requirements is that you must establish a Radiation Safety Officer. Their job is to prepare operating and safety procedures and keeping them updated, inform the Department if any of the machinery is lost or stolen, they must know radiation protection policies and procedures, stop unsafe practices, keep records, train employees, and ensure the regulations are followed. This application must be submitted to the Department within 30 days of installation of radiation generating equipment. They must be authorized to use this equipment by the Department before it can be used.

Darrell Klein stated that the statute is largely focused on the machine. Dr. Wenner replied by saying that they also must list the people that would be using the machine and the intention of the procedures that they would be performing when they registered for the machinery. Cora Schrader said that what the applicant group is suggesting is that if they were going to bring a mini-C-arm into a med spa the Department would know about it. Darrell Klein said the Department would know about it, but they could not do anything about that. He added that if someone meets the standards at med spas, they could have access to these machines. Dr. Wenner replied by saying they could not meet these standards at those facilities.

Continuing in the presentation, Dr. Wenner stated that as part of the authorization they must have a reviewer consultation including serving the areas, having the shielding reviews, and the health physics consultation. Essentially meaning, there is someone going to the physical location to ensure they have the appropriate things in place to ensure protection from radiation.

In response to a question presented at the last meeting surrounding what a Radiological Medical Physicist is/does. The American Board of Radiology certifies these professionals, and they have knowledge in physics, gamma ray, x-ray, radium physics, and radiological physics. The American Board of Medical Physics or the Canadian College of Medical Physics can certify them. Certification must be in the specialty the individual will be clinically practicing.

In terms of the proposed change, Dr. Wenner explained that the applicant group's original intent was to change the Radiation Control Act. They will modify their proposal to follow the path that the CRNAs had done.

Darrell Klein joined the conversation by saying that Medical Radiographers, other than with CRNAs, cannot do diagnostic fluoroscopy, so adding their profession to the list of licensed practitioners will not necessarily get them what they want.

Dr. Wenner discussed how within the statute, they would add themselves as Chapter 25 (CRNAs are Chapter 23). In this proposed language, they said that after the completion of the equivalent of UNMC four-hour training for fluoroscopy/ radiation safety and the five procedures that are under the direct supervision of and in the physical presence of a physician or a person meeting the requirements.

Dr. Wenner laid out some of the regulations that would be a part of the proposal. In terms of general requirements, documentation of completion of required education and training must be maintained by the nurse practitioner that performs fluoroscopy. Administrative controls would read, prior to the use of fluoroscopic equipment by nurse practitioner, the registrant must ensure that the nurse practitioner has successfully completed an approved educational program in fluoroscopy and received hands-on training in the use of a fluoroscopy by completing at least five fluoroscopic procedures under the direct supervision of and in the physical presence of a physician or a person meeting the requirements of this Chapter.

Dr. Waldron asked if they would be expanding their scope of practice in their Practice Act. Darrell Klein responded, saying that that is what the CRNAs had to do. He continued, saying that medical radiographers are not allowed to do diagnostic fluoroscopy. With the CRNA Act, they can with the supervision of the CRNA. Mr. Klein added that getting an exemption from the Medical Radiography Act does not get you anything. He indicated that historically, the NMA had been adamant about not allowing medical radiographers to do fluoroscopy.

Dr. Wenner asked Dr. Wienke about his use of fluoroscopy. Dr. Wienke said that he cannot scrub out to take the picture and that most of the time it is the radiology technicians taking the images/ directing the radiographers. He continued, saying that they are not allowed to interpret the images, but they are often the only ones allowed to take those images. Dr. Wenner asked if Dr. Wienke had the radiology technicians operating the mini-C- arm, to which he replied no, he would just operate the mini-C- arm. Mr. Klein explained that the actual language is excluding interpretive fluoroscopic procedures. So, the language of the statute does not say they cannot interpret, it says they are not authorized to take part in an interpretive fluoroscopic procedure. Dr. Wienke asked who the law suggests do it. Mr. Klein suggested that it would have likely been a radiologist, which was their starting point.

Dr. Dering-Anderson asked, do the nurse practitioners want to be able to ask someone else to do this procedure, or push the button themselves. The applicant group responded by saying both. Dr. Dering-Anderson then clarified that at this moment they cannot do either. Dr. Wenner added that since nurse practitioners can hold many different roles within a medical setting, that it's important that they can have access to both scopes.

Dr. Chasek asked what it meant to have fluoroscopy used in reduction. Dr. Wenner replied by saying it means to realign a broken bone. Dr. Wienke said they use fluoroscopy to take a picture of the fracture and then they can figure out where to adjust it.

Dr. Waldron asked why that could not be clarified in their Practice Act. Dr. Negri said it can, but they thought it would be cleaner and clearer to add it to the Medical Radiography statute. Dr. Waldron asked, why. Dr. Negri responded by saying it would be hard to add it to the Practice Act because then it would just become a litany of things they could do but the Act is meant to be somewhat vague because the medical world is changing so much every day.

Dr. Waldron explained that she thinks of this in terms of her profession, psychology, as important as diagnostic or psychological testing. She said psychologists have that as a component of their act and then in regulations, it is described further. Cora Schrader said that they had different options to go about achieving this increased scope and they went with the one they thought would work best but after committee feedback they are changing their approach. She also suggested that they wanted to have more vague language so that they are not coming back to each legislative session and singling out certain things within the language.

Dr. Dering-Anderson asked how the physician assistants could have the ability to do this under the Board of Medicine without it being in their Practice Act. Darrell Klein answered by saying that when the Medical Radiography statute was enacted, all these different professions had already had it in their scope of practice.

III. Questions from the Technical Review Committee

Dr. Chasek asked about the Board of Nursing's concern, that being why the nurse practitioners would be included in the Medical Radiography statute compared to the way the CRNAs went about it, the separate carve-out path. Darrell Klein helped outline that it would be the better way for the applicant group to achieve their proposal. Dr. Wenner asked how they would be able to include the operating of machinery, asking if they could still do it in the same manner. Mr. Klein asked if the nurse practitioners were under the Board of Nursing or the Board of APRNs to which the answer was they are under both Boards.

The applicant group shared their proposed statutory language change. Mr. Klein suggested making it clear that the nurse practitioner would be directing the medical radiographer. Dr. Negri said that she had made this language as close to the CRNA's language. Mr. Klein added that he would be in favor of this language if the applicant group specified that it was allowed only in a licensed medical facility under the Healthcare Facility Licensure Act. He continued that any facility that requires a license has that extra layer of protection. Dr. Wenner said for them to meet the requirements to have that machine put in there it will not happen. She continued that

all the radiologists she had consulted with had agreed. Her main concern was what happens when they must use a mini-C-arm in an office setting.

Dr. Dering-Anderson said that she understands the problem with access to critical access hospitals and that it may be helpful to include a map of the state that included places where nurse practitioners would have worked if they had the increased scope of practice. Dr. Wenner said they are not opposed to adding that into the language. Cora Schrader stated that they just want to make sure that list of licensed facilities lines up with where employment opportunities are. Going off that, she continued by saying what they do not want to happen is if there is some medical center that is not necessarily licensed, that if fluoroscopy is what is best practice, they do not want to be restricted.

Dr. Negri responded to concern regarding chiropractors but under current regulation chiropractors are already licensed in fluoroscopy. Dr. Waldron clarified that she was talking about the number of offices that can have the machinery that would not be regulated. She continued saying that the applicant group said that all the offices would be regulated, she said they are not licensed because they are not facilities. Dr. Negri asked for input on how to research if there are any fluoroscopy machines within the state of Nebraska in a non-licensed facility.

Dr. Chasek made a comment about the 407 process which is about what could happen in the future if this scope were expanded and the potential harm that could be done to the public. Dr. Negri commented that she does not think it is fair to make up things that could happen. Mr. Klein jumped in, commenting on the benefits and harms that they are expected to judge the proposal on and opening a new class of people who could get this machine and use it increases the risk to some degree. He added that in those licensed healthcare facilities there are more providers and staff that function as additional safeguards as compared to an unlicensed office.

Dr. Chasek read one of the criteria, the proposed change does not create a significant new danger to the health, safety, or welfare of the public. We must review that information to make sure the benefits outweigh the risks. Dr. Wienke said that they had not delineated the risk of having them in a private office. Mr. Klein responded, saying that the risk under this proposal is that a nurse practitioner could do fluoroscopy with some dose of radiation, without any additional safeguards. Dr. Wienke suggested that there is always that risk of radiation and people could make up these falsely advertised procedures. Mr. Klein responded by saying that there are no nurse practitioners creating risk right now because they do not have the scope to do so. He added that he is not saying that the benefit does not outweigh the risk, but that is the risk.

Member of the applicant group, Ann Young, asked the committee what the difference in risk of a doctor pushing the button and the nurse practitioner pushing the button. Mr. Klein responded, saying the difference in the procedure is nothing, the increased risk is that there would now be an additional 1500 providers that could create harm. Ms. Young continued saying that their intent is to treat patients that need access to

this care. To add on, Dr. Wenner said that she hears the concerns from the committee about the med spas but that it is not a part of their 407. Mr. Klein reiterated that if the applicant group limits the scope expansion to licensed healthcare facilities, then he would be in favor of the proposal because his concern is not about the nurse practitioners performing fluoroscopy in hospitals.

Dr. Chasek said that one of the risks that the applicant group outlined, harm from higher exposure, doses of radiation, prolonged fluoroscopy can cause tissue burns, hair loss, and add to the risk of cancer, saying that those are the risks to her.

Dr. Wenner asked where they would list the licensed facility. Mr. Klein said the Healthcare Facilities Licensure Act will list the qualified facilities. Dr. Wenner asked if they would talk to the med physicists who are authorizing these machines and they say there is no chance that these kinds of facilities could meet the requirements to even operate these machines, would that be enough to satisfy the concerns of the committee. Mr. Klein suggested talking to the Radiation Control Office at the Department and finding out what they would do. He continued, saying that if they meet the requirements of those regulations to have the machine, and it must be registered, then the Department must issue the registration. Mr. Klein added that they go out every two years or so to inspect and what they are looking for is that the people who are operating the machinery have the necessary training and to ensure the machine is functioning well. Dr. Wenner said that it is not that easy to get these places authorized, saying that there are hundreds of pages of standards you must meet to be compliant. Mr. Klein responded, saying that those standards would not keep someone from performing fluoroscopy unnecessarily. Dr. Negri asked, if someone were to work outside of the standard of practice, wouldn't that be a disciplinary action to be brought in front of the Board? Mr. Klein said they would have to gather the evidence and determine whether they had enough evidence to bring the case forward to the Board.

Dr. McCarty had some comments about all that had been discussed. She thought about this in the context of her dental hygienist who routinely takes X-rays, saying she does not have a problem with any provider who is in a facility who is professionally trained using a machine they have had adequate training on. Dr. McCarty also commented on how some of the nurse practitioners she knows are far more trusted than some physicians. She added that the conversation had been shifted to the negative side of those who may act out of the standard of care, continuing that the request at hand is reasonable. Based on the articles that the committee members had received, she commented that one concern she had was that some of the articles are ten years old or older, but that she made note of a statement of thinking of nurse practitioners as colleagues not competitors. Dr. McCarty suggested that she does not see the applicant group's proposal as an increased risk and that there were no negative consequences that any of the articles pointed to.

Dr. Wenner stated that in collaborating with stakeholders, they have heard that med spas are a concern across the country, and again that there are twenty-two states

that nurse practitioners are doing fluoroscopy in, states where these med spas exist, and they have not found any harm. Mr. Klein asked if they had looked for any disciplinary action against licenses. Dr. Wenner said that they had asked, and they had not received anything. Mr. Klein commented on how the articles were all taken place in licensed facilities.

Dr. Negri stated that she also looked for articles that there was harm done from fluoroscopy by a nurse practitioner, and she could not find any. She said she also researched the state Boards of Nursing and APRN Boards, and she found there were disciplinary reports for nurse practitioners but none of them performing fluoroscopy. Dr. Negri also wanted to highlight that she frequently orders CT angiograms stating that that has more radiation than fluoroscopy. The committee asked if they had that information anywhere in the applicant group's application. The applicant group said nothing about the radiation load but that they will add it in.

Dr. Wenner added that they go to great lengths to be aware of and safe with radiation. Saying that if nurse practitioners start doing this and it is not indicated that they are doing it safely, they will be reporting them, and it is completely unacceptable. Mr. Klein jumped in, saying that that is where his concern lies, if the sole provider is the nurse practitioner and no other credentialed person, asking who is going to report them.

Dr. Chasek said that she must be able to answer questions [statutory criteria] satisfactorily from the materials provided. Naming a couple: what is health and safety for the public, what would it change, etc. She added that they have a lot of support. She also wanted to know what the Board of Medicine had thought about the proposal. Amy Reynoldson said that she cannot speak on behalf of the Board of Medicine but that there are concerns. Dr. Chasek referenced the nurse practitioner's application, specifically the kind of machines and who oversees it, she quoted, "fluoroscopy competency is overseen by the institutions and or owner of the equipment." She asked for clarification if that is who ensures the machine is used correctly. To which the applicant group said yes that the hospital or facility it is operated in and owns it, not necessarily just the provider.

Dr. McCarty had a question about the comment of the nurse practitioner being the only credentialed person and whether they would feel the same way if a physician was the only person. Mr. Klein said if it were up to him, the Department would license physicians' offices but that that is unlikely but the difference here is they have a proposal to change the law as opposed to what could they go back to fix the existing law.

Dr. Negri found a research paper the day of the meeting, from the Journal of Radiography that explores nurse practitioners providing a lower dose of radiation compared to their counterparts for lumbar punctures. Dr. Wenner asked if they agreed to write in to only perform fluoroscopy in licensed medical facilities, would there be any other concerns. Dr. Dering-Anderson suggested making the definition of facility to be as well defined as possible and including that when you do fluoroscopy,

the radiation safety officer had determined that you do not have to wear a badge or a ring [radiation PPE] since that is a big deal when discussing risk to patient safety. Dr. Wenner said that it is already written into the statute as it is. Dr. Dering-Anderson agreed, but she would like it included to prove the safety and limited risk. Dr. Wenner said that it is only true of the mini-C-arm and with the larger machinery, it is necessary to have the radiation PPE.

Dr. Dering-Anderson mentioned one of the articles sent to the committee titled, "Part Two" and requested the applicant group find "Part One." She commented that the author writes concisely. Mr. Klein asked the applicant group to compare who are the providers that can already perform fluoroscopy and the absence of statutory guidance for their training.

Dr. Waldron asked what if, in those smaller towns that lack access to a provider or a direct supervisor, what if there was a way for a nurse practitioner to be able to talk to someone in some capacity to guide the provider through administering these services in those unlicensed office spaces after they have completed additional training and education. Dr. Negri responded, saying the Nebraska Nurse Practitioners has a mentorship group within the organization but they would not consider making that part of the law because that might restrict access. Dr. Negri said they are worried about limiting the ability of someone to work in more than one area.

Dr. Chasek referenced the applicant group's presentation saying that in risk mitigation there is going to be oversight of collaborating physicians, surgeons, and radiologists. The applicant group said yes, you must also have a radiology safety officer.

Mr. Klein asked if there is some other way to account for people who do not work in a hospital but could have some kind of collegial support. Dr. Chasek said that she thinks some of that is addressed saying that they must have four hours of postgraduate training, five hours under the supervision of someone who is trained during hands-on procedures, and one hour of continuing education. She asked how that compares to the radiologic training that physicians get. Dr. Wienke said that is more training than physicians receive.

Dr. Chasek asked for clarification on the request. Dr. Negri said the request currently is scope of practice change with the identified paragraph inserted into the Nurse Practitioner Practice Act. Mr. Klein said it would be nice to have a revised version of the application for the next meeting.

Mr. Klein suggested taking the CRNA route to approach the increased scope of practice. He continued, if the applicant group were to restrict the language to only including licensed facilities, in his eyes, the risk goes away but it also reduces the benefit of increased access.

IV. Questions or comments from Interested Parties

Amy Reynoldson from the Nebraska Medical Association (NMA) said they do not have a formal position statement however they will not be obstructing because they do see the value of nurse practitioners being able to perform fluoroscopy. Ms. Reynoldson suggested that the statutory language the applicant group had prepared was different from that of the CRNA's and asked why. Dr. Negri said the CRNA scope of practice is almost exclusive to the operating room so they would not be without a radiology technician. Given that the nurse practitioner's usage of fluoroscopy would be different from that of the CRNAs, the language is different because they may not always have access to a radiology technician.

Ms. Reynoldson said that brought up another question. Stating that the CRNAs cannot interpret, as per their statute, and the nurse practitioners had expanded theirs to include "direct, perform, and interpret." Ms. Reynoldson asked if they could get the curriculum to the expected educational standards being proposed. Dr. Wenner jumped in and said what she thinks gets confusing is that the radiologist is the only one who can interpret diagnostically, the language for the nurse practitioners is for procedural assistance. Ms. Reynoldson suggested putting what Dr. Wenner had said into their proposed language.

Ms. Reynoldson reiterated that they are not taking a positional stance on the proposal and that they did have some reservations about the original application and changing the Medical Radiography Practice Act.

Dr. Negri thanked Ms. Reynoldson for the feedback, saying that it is helpful.

Ann Oertwich, Executive Director for the Board of Nursing, said that the applicant group is indicating that the Board of Nursing's authority to take disciplinary action taken against nurse practitioners is sufficient to protect the public if fluoroscopy is added to their scope. She noted that the issues that are unfolding in current practice (compounding of drugs at "med spas") have a long timeline from initial complaint to disciplinary action. She added that if they were having this conversation a year from now, she would guarantee there would be disciplinary action being taken.

V. Requests for additional information

It was discussed that the applicant group would have a revised application before the next meeting for the Technical Review Committee to review. It was also discussed or suggested by Dr. Chasek to include a succinct literature review in their revised application.

Dr. Waldron suggested to the applicant group, if they could expound on the collaboration portion of the section labeled, "mitigated risk" then it may ease some of the committee members' concerns.

VI. Comments from members of the public

There were no comments from members of the public.

VII. Adjournment

The meeting was adjourned at 4:39 P.M.