

Credentialing Review (407): Technical Review Committee Orientation

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What is Credentialing Review and its purpose?

- The purpose of the Credentialing Review Program is to establish potential health-related guidelines to either change the scope of practice of a currently regulated healthcare profession or create a new credential entirely.
- The Credentialing Review Program serves as an advisory role to the Nebraska Legislature; action by the Legislature is required before an occupation can be credentialed or scope of practice changed.
- The Credentialing Review Program contains three individual review bodies that will compose their reports independent of the other review bodies; however, each review body must consider evidence presented at previous stages of the review.
- The program provides the Nebraska Legislature with informed reviews on credentialing issues free from lobbying and special interest groups.

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What are the goals of the program?

- To provide recommendations to the Legislature that represent practical, and cost-effective ways to protect and promote the health, safety, and welfare of the citizens of Nebraska.
- 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.
- To encourage representation and participation by members of the public as well as by health care providers and interest groups.
- 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.
- To maintain an open and positive atmosphere that values seeking solutions that benefit the public over political maneuvering, bargaining, and lobbying.

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Two Types of Reviews

1. Currently unregulated health professions
2. Changes in scope of practice for already regulated health professions

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General Review Bodies of the Process

3 Review Bodies:

- Technical Review Committee
- State Board of Health
- Director of the Division of Public Health of DHHS

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Technical Review Committee

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Requirements of the Technical Review Committee

Purpose:

- Technical Review Committees provide objective advice to the Board of Health and the Director as to the merits of the proposal.
- This advice must be based upon testimony, research, and data.

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Requirements of the Technical Review Committee

Committee Formation:

- Committee members are chosen from the Technical Review Committee Pool that contains both members of the public and currently licensed medical professionals.
- The make up of the committee will vary depending upon availability and conflict of interest forms although precedence is given to members who are currently licensed medical professionals.
- The aim of each committee is to have 4 currently licensed medical professionals and 2 members of the public, along with the Chair (Board of Health member appointed by the Board).
- Volunteers fill out the Conflict-of-Interest forms reviewed by the Director of Public Health.
- The Board of Health votes on its recommendations for appointment to the Technical Review Committee, recommending six members and two alternates.
- The Director of Public Health appoints the final Technical Review Committee

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Requirements of the Technical Review Committee

Committee Composition Rules:

- Include six appointed members and one State Board of Health member, to chair committee.
- Include no more than one person within the same profession.
- Be fair, impartial, and equitable.
- Have no conflicts of interest; Members cannot:
 - Be a part of the applicant group
 - Belong to a profession impacted by the proposal
 - Have ties to the proponents/ opponents

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Meeting Formats

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Meeting #1 Format

Organizational Meeting Phase

- **Virtual Meeting** for Technical Review Committee members, proponents, opponents, interested parties, etc. who intend to attend meetings; to provide rules for proper interaction between committee members and interested parties (in person and online).
 - Staff provides orientation and guidance.
- * Please note interested parties and stakeholders are used synonymously in this presentation*

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Meetings #2 and #3 Format

Issue Definition Meeting Phase

- Applicant group prepares a PowerPoint presentation of the proposal to explain the basis of the proposed changes (this presentation may contain slides on how the proposal meets statutory criteria that the TRC will vote on) and may include summarized information from preceding meetings.
- Technical Review Committee members ask questions to clarify understanding of the proposed changes, current scope, and requirements to practice.
- Technical Review Committee members may also ask for additional information from the applicant group or staff to assist in their assessment of the proposal.
- Time will be allotted for members of the public, opponents, interested parties, and proponents to speak.

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Meeting #4 Format

Public Hearing Meeting Phase

- Applicant group prepares brief PowerPoint Presentation that gives an overview of the proposal and what has been discussed at past meetings (this presentation may contain slides on how the proposal meets statutory criteria that the TRC will vote on).
- Technical Review Committee members may continue to ask clarifying questions, seek additional information, how the proposal meets statutory criteria, and ask stakeholders (proponents, opponents, professional boards, interested parties) input.
- Technical Review Committee members may also ask for additional information from the applicant group or staff to assist in their assessment of the proposal
- More time will be allotted to hear testimony from proponents, opponents, professional boards, and interested parties than previous meetings.

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Meeting #4 Format (Continued)

Public Hearing Meeting Phase

- Technical Review Committee discusses how the proposal does or does not meet statutory criteria.
- This meeting allows time for proponents, opponents, professional board members, and interested parties to express their opinions, separate from the issue definition meetings, in that those should have been objective information; this meeting allows for subjective information.
- This meeting allows time to hear formal testimony from interested parties.
- Any interested party providing testimony at the Public Hearing must state their name and who they are representing.
- When possible, interested parties providing testimony, must submit a copy of the document to program staff following the Public Hearing.

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Meeting #5 Format

Recommendation Meeting Phase

- The applicant group can summarize what has been discussed over the course of the Technical Review Committee meetings and how their proposal meets or doesn't meet the statutory criteria of the Credentialing Review Program.
- The Technical Review Committee will have the opportunity to ask final questions of the applicant group; Once they feel satisfied with the discussion/ questions asked, they may vote.
- The staff will read out each individual statutory criteria and take a roll call vote; Immediately following, committee members may make a motion to open up the individual criteria for discussion if they would like to further explain.
- Once all statutory criteria have been individually voted on, staff will take a roll call vote on the overall recommendation from the Technical Review Committee.
- The chair of the committee is instructed to abstain from voting unless there is a tie vote on the overall recommendation, as the Technical Review Committee must either approve or deny the proposal per the statute (N.R.S. § 71-6224 (2012)).

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Meeting #6 Format

Final Report Adoption Meeting

- Virtual meeting.
- Committee reviews the drafted report and minutes before the meeting.
- Committee members may come with revisions to be made to the report.
- Once the committee is satisfied with how the report reads, a member will make a motion to adopt the final report as a committee, which will need to be seconded, followed by a roll call vote of all committee members.
- The final report will then be sent out to the applicant group, interested parties, proponents, opponents, professional boards, and posted on the webpage.

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Role of the Technical Review Committee

Technical Review Committees are responsible for conducting a thorough, objective evaluation of credentialing proposals. Their main tasks include:

- Is there a need for additional information beyond what the proposal presents?
- Does the proposal create a benefit or enhancement to the public's health?
- Does the proposal improve access to health care services in rural, suburban, and urban populations?
- If enacted, would the proposed changes be more effective and efficient than current practice?
- Are the criteria met?
 - The TRC will evaluate the application based on the criteria in N.R.S 71-6221 to 71-6223
 - The TRC members will vote on individual criteria AND vote on the proposal as a whole
- Are there adjustments to the proposal that could be made to better align with the criteria?

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Meeting Expectations

- Members are expected to attend all meetings in person except for Orientation and the Final Report Adoption Meeting.
- The Orientation Meeting and Final Report Adoption Meeting (Meetings #1 and #6) will be held virtually for each review.
- Under Nebraska's Open Meetings Act:
 - At least half of all Technical Review Committee meetings must be in-person (even one virtual attendee makes a meeting “virtual”).
- Virtual participation reminders:
 - The members must have a reliable internet connection.
 - Their camera remains on for the full meeting.

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Meeting Expectations (Continued)

Stakeholders including proponents, opponents, professional boards, members of the public, etc. reminders:

- Time will be allotted for stakeholder groups at each of the meetings.
- Unless directly asked by a committee member during the meeting, please refrain from providing subjective information until the Public Hearing.
- If the Chairperson deems that the public commentary is disruptive to the process/ understanding of committee members, they will have the authority to shorten the time allotted.
- Be respectful of all parties.

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Public Hearings

- The Technical Review Committee holds public hearings to gather:
 - Oral testimony from stakeholders.
 - Written information relevant to evaluating whether a proposal's benefits outweigh the risks.
- The hearings serve to:
 - Address questions or concerns raised in earlier meetings.
 - Provide a platform for stakeholder input.
 - Allows subjective information from stakeholders (interested parties, opponents, proponents, regulatory boards, etc.).

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New Health Profession Criteria: Initial Credentialing of Unregulated Health Professionals currently allowed to engage in Full Practice

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New Health Profession Credential- Criterion #1

“Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public.”

- Is the public suffering harm or danger, if any, is it directly attributable to the absence of regulation of the profession, and whether the harm or danger, if any, is of sufficient magnitude to warrant state intervention?
- The documentation of harm or danger to the public must be sufficient to demonstrate that the harm or danger is clear and is attributable to the lack of regulation of the profession in question. Evaluation of harm or danger must be based on the highest level of evidence available.
- Harm or danger to the health, safety, or welfare of the public may occur in physical, emotional, economic, or social contexts; and as such all of these can be considered.
- A certain level of harm or danger attributable to human error and uncontrollable factors will always occur within any health care field.

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New Health Profession Credential- Criterion #2

- Will regulating the profession bring about significant harm or danger to the health, safety, or welfare of the public through the creation of unnecessary barriers to service.
- Documentation of harm or danger to the public from creating a new credential must be sufficient to demonstrate that the harm or danger is clear, that it is attributable to the creation of the separate regulated profession in question, and that it is serious and extensive.
 - Evidence must clearly demonstrate how and why this situation protects the public from harm or danger.
 - Evidence must show the benefits of creating the new regulated health profession clearly to be greater in extent and impact than any harm or danger that would be created.
 - If regulation of the profession would require a scope of practice to be defined the scope of practice must be coordinated with those of regulated professions to minimize fragmentation of the health care system.
- Regulation of the profession must not lead to unnecessary limitations on the utilization of personnel by employers or to underutilization of qualified personnel.
 - Regulation of the profession must not result in an unnecessary reduction in competition.

“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.”

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New Health Profession Credential- Criterion #3

- Must determine that the need of the public for this assurance can be demonstrated, that members of the public play an active role in choosing their licensed profession, that information about the qualifications of the licensed profession is an important element in making that choice, and there is currently no mechanism that will provide such information as effectively as would the issuance of a State credential.
- Must determine that the institutional or supervisory structure is inadequate to protect the public from harm, and that the issuance of a State credential to the practitioners of this profession would overcome these inadequacies.
- Evidence presented must show why a state-issued credential is necessary to allow the public to identify competent practitioners; this is especially significant for professions that already have a strong recognized private system of credentialing.
- If there is a recognized system of private credentialing, the proposed requirements for obtaining state credentialing must be compared closely to those for private credentialing; if they are nearly identical, there must be compelling evidence to show why such redundancy is in the public interest.
- Evidence must show that members of the public are unable to easily evaluate the qualifications of persons offering the service in question.
- Whether the education and training requirements set forth in the proposal are necessary and adequate for safe and effective practice.

“The public needs
assurance from the
state of initial and
continuing
professional
ability.”

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New Health Profession Credential- Criterion #4

- The credentialing proposal as presented is an effective remedy to the harm or danger identified, and that no other evident means of dealing with this harm or danger would provide a more effective alternative.
- Viable alternatives to the proposal have been identified and, if available, if the alternative are able to address the same harm or danger raised in the applicant proposal.
 - Evidence supporting the proposal shows that its enactment would clearly, specifically, and directly solve or alleviate the problems, including harm or danger to the public, that are used to justify the application.
- All evident alternatives to the proposals might provide the same or greater problem-solving potential as the proposal, while being more cost-effective or less restrictive; alternatives may include different levels or types of state credentialing or regulation of the profession, maintenance of the status quo, and other potential solutions; reviewers are not limited to evaluating only alternatives presented to them by the applicant group; they can actively seek to identify and analyze potential alternatives. The recommendations of the reviewing body must reflect their best assessment of the most likely solution to the problems identified.
- The costs of the proposal, and of any alternatives considered, must be evaluated for unnecessary financial burden to the public.

“ The public
cannot be
protected by
a more
effective
alternative.”

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New Health Profession Criteria: Initial Credentialing of Health Professionals currently prohibited from Full Practice

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New Credential to Allow Full Practice- Criterion #1

- The public is suffering harm or danger, which is clearly and directly attributable to the absence of the separately regulated health profession under review, and that this harm or danger is of sufficient magnitude to warrant state intervention.
- The documentation of harm or danger to the public must be sufficient to demonstrate that the harm or danger is clear, that it is attributable to the absence of the separate regulated health profession in question. Evaluation of harm or danger is based on the highest level of evidence available.
- Harm or danger to the health, safety, or welfare of the public may occur in physical, emotional, or social contexts and as such all of these can be considered.
- Harm or danger to the public must be of sufficient extent and severity to warrant governmental intervention. A certain level of harm or danger attributable to human error and uncontrollable factors will always occur within any health care field.

- “Absence of a separate regulated profession creates a situation of harm or danger to the health, safety, or welfare of the public.”

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New Credential to Allow Full Practice- Criterion #2

“ Creation of a separate regulated profession would not create a significant new danger to the health, safety, or welfare of the public.”

- Any harm or danger that might result from the creation of the separate regulated profession would not be outweighed by the benefits of providing legal access to the profession in question.
- Documentation of harm or danger to the public must be sufficient to demonstrate that the harm or danger is clear, that it is attributable to the creation of the separate regulated profession in question, and that it is serious and extensive. Evaluation of harm or danger is based on the highest level of evidence available.
- Evidence supporting the status quo must clearly demonstrate how and why this situation protects the public from harm or danger.
- Evidence must show the benefits of creating the new regulated health profession clearly to be greater in extent and impact than any harm or danger that would be created.
- If regulation of the profession would require a scope of practice to be defined, the scope of practice must be coordinated with those of regulated professions to minimize fragmentation of the health care system.
- Regulation of the profession must not lead to unnecessary limitations on the utilization of personnel by employers or to underutilization of qualified personnel.
- Regulation of the profession must not result in an unnecessary reduction in competition.

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New Credential to Allow Full Practice- Criterion #3

“Creation of a separate regulated profession would benefit the health, safety, or welfare of the public.”

- The creation of a separate regulated profession would likely produce widespread benefits for the public, and that the amount and extent of the benefits would outweigh any possible harm or danger that might be caused by creating this newly credentialed and legalized profession.
- Documentation of benefits to the public must be sufficient to demonstrate that there is a realistic expectation of their occurrence following enactment of the desired legislation, and that they will be of significant amount and extent. Evaluation of benefits to the public is based on the highest level of evidence available.
- The extent and amount of benefit to the public must clearly outweigh any potential harm or danger to the public that might be brought about by the creation of a separate regulated profession.
- Benefits to the public may occur in physical, emotional, economic, or social contexts and as such all of these can be considered.
- Whether the education and training requirements set forth in the proposal are necessary and adequate for safe and effective practice.

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New Credential to Allow Full Practice- Criterion #4

“ The public cannot be protected by a more effective alternative.”

- The creation of the separately regulated profession would be an effective remedy to the harm or danger identified, and that no other evident means of dealing with this harm or danger, including the status quo, would provide a more effective alternative.
- Viable alternatives to the proposal have been identified and, if available, if the alternative are able to address the same harm or danger raised in the applicant proposal.
- Evidence supporting the proposal shows that its enactment would clearly, specifically, and directly solve or alleviate the problems, including harm or danger to the public, that are used to justify the application.
- Protection of the public must be interpreted as protecting it both from any harm or danger caused by absence of the profession, and from any harm or danger caused by permitting the separate practice of the profession.
- Any and all evident alternatives to the proposal might provide the same or greater problem-solving potential as the proposal, while being more cost-effective or less restrictive. Alternatives may include different levels or types of state credentialing or regulation of the profession, maintenance of the status quo, and other potential solutions. Reviewers are not limited to evaluating only alternatives presented to them by the applicant group; they can actively seek to identify and analyze potential alternatives. The recommendations of the reviewing body must reflect their best assessment of the most likely solution to the problems identified.
- The costs of the proposal, and of any alternatives considered, must be evaluated for unnecessary financial burden to the public.

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Changing Scope of Practice Criteria

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Scope of Practice- Criterion #1

The review body must determine that at least one of the following is occurring:

- The cost of the services in question is prohibitive for some members of the public under the current limitations on scope of practice.
- Access to the services in question is very difficult for some members of the public under the current limitations on scope of practice.
- The quality of the services in question is adversely impacted under the current limitations on scope of practice.
- The range of services of the profession under review is too limited under the current scope of practice raising concerns about consumers having to access the services of other providers whose practices are not as accessible or whose services are more costly.
- Actual harm or danger to the public health and safety is occurring because of the absences of the proposed scope of practice.

“The health, safety, and welfare of the public are inadequately addressed by the present scope of practice or limitations on the scope of practice.”

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Scope of Practice- Criterion #2

- The enactment of the proposed changes in scope of practice would produce widespread benefits for the public, and the amount and extent of the benefits would outweigh any potential harm or danger to the public that might be caused by enactment of these changes.
- Documentation of benefits to the public must be sufficient to show that there is a realistic expectation of their occurrence following enactment of the proposed changes in scope of practice, and that they would be of significant amount and extent. Evidence from other jurisdictions in which the profession has practiced with the proposed change in scope of practice is preferred.

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

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Scope of Practice- Criterion #3

- Evaluation of physical, emotional, economic, or social danger to determine whether any evident danger would be created by the proposed change in scope of practice and significant enough to outweigh the benefits of implementing the proposed change in scope of practice.
- Evaluation of danger is based on the highest level of evidence available.

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

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Scope of Practice- Criterion #4

- Analysis of the current education and training must show that it adequately prepares the practitioners in question to perform the new skill or service being proposed in a safe and effective manner.
- Evidence must be presented to demonstrate that the current education and training is adequately and appropriately accredited.

“The current education and training for the health profession adequately prepares practitioners to perform the new skill or service.”

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Scope of Practice- Criterion #5

- There are programs in place, and the programs show that they are adequate to ensure that the practitioners are able to perform the new skill or service being proposed in a safe and effective manner.
- Evidence that demonstrates programs comply with acceptable standards.
- Evidence presented that demonstrates programs are available and at a cost that is not prohibitive.

“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.”

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Scope of Practice- Criterion #6

- Practitioners of the proposed new scope of practice must be subject to the complaint, investigation, and discipline provisions of the Uniform Credentialing Act.
- If the proposed new scope of practice will be implemented through the issuance of a new credential, and appropriate continuing competency requirements are established for the credential.

“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.”

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Applications & Proposals

Applications:

- Cover Page
- Narrative section
 - a. 19 questions on fundamentals of the proposal and applicant group.
 - b. 9 questions exploring the issues pertinent to the idea or ideas in the applicants' proposal.

Supporting documents:

- a. Should contain the information necessary to define the current practice situation of the occupation.
- b. Should identify the possible impact of the proposal if it were to become part of NE State Law.

Proposals:

- The ideas for making changes in the credentialing of health professions.
- Should provide anticipated statutory amendment language that would be needed to implement the proposed changes.

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Amending an Application

- A proposal may be amended only by the applicant group during the Technical Review stage of the review process.
- If the proposal is amended following a public hearing, DHHS legal department shall determine whether changes are substantive enough to merit a subsequent public hearing on the amended proposal prior to the committee's final recommendations and report.

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The Open Meetings Act

- All discussion of issues and conduct of committee business is required to occur at formally noticed meetings.
- There are no closed sessions in this program.
- Any gathering of a quorum of the Technical Review Committee that discusses committee business, and which has not been duly 'noticed' in public media is in violation of the Open Meetings Act.
- The public is allowed to speak at each of the meetings within their designated time limits.

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Rules for Internal and External Stakeholder Interactions

- All information that internal AND external stakeholders wish to share with the committee members must be shared with program staff first; Program staff will disperse that information to review bodies.
- Lobbying of committee members is not appropriate.
- Information must be shared among all members of each review body.
- It is not appropriate for committee members to attempt to manipulate or exert undue influence on fellow committee members.
- Internal and External Stakeholders should only speak to the merits of the application during the Issue Definition Meeting Phase.
- Internal and External stakeholders will have the opportunity to speak to more subjective information regarding the application during the Public Hearing Meeting Phase.
- Internal and External Stakeholders must contact program staff at least 1 business day prior to the Public Hearing with information they would like to share with committee members, excluding testimony.

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Rules for Internal and External Stakeholder Interactions (Continued)

- Committee members may ask questions of the interested parties or members of the public at Technical Review Committee meetings.
- Until the Public Hearing, questions from committee members should only be about objective information (for example, current education/training curriculums, trends in healthcare/ that profession, etc.).
- Members of the public, proponents, opponents, and interested parties will have the opportunity to speak at each of the meetings within their given time limits.
- The chairperson has the authority to curtail any public commentary as they deem necessary with respect to openness and good order.

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Role of Staff

- Provide program information, instructions, and other such materials as necessary for the committees to carry out their duties and responsibilities.
- Provide any other information upon the request of committee members to assist them in carrying out their duties.
- Must submit electronic copies of all documents received to the agency to be posted on the Credentialing Review Program webpage.
- 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.
- Staff must assist all parties in the review equally and impartially.
- Staff must advise the technical review committee on procedures, appropriate statutes and regulations, and the application of criteria during the review.

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Evidence Rules

Levels of Consideration:

1. Randomized Trial
2. Comparison Groups
3. Pre vs. Post Comparison
4. Correlation Study
5. Case Study
6. Anecdotal
7. Other evidence as appropriate

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Documentation

Any data or assertion of fact that are not supported by appropriate documentation will not be included in any of the reports that emerge from the review process and may not be considered in formulating recommendations

- The identification of a credible source for the data or information presented.
- The source of the data or information is provided to the reviewers.

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Operational Guidelines

- Travel and lodging reimbursement.
- Parking provided.
- Criteria interpretation worksheet provided by staff.
- Submit reimbursement documents after each meeting.

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Maggie Mills

Policy Program Specialist

Maggie.Mills@nebraska.gov

402-471-3084

<https://dhhs.ne.gov/licensure/Pages/Credentialing-Review.aspx>



Nebraska
Department of Health
and Human Services



Nebraska DHHS



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