

DIRECTOR'S REPORT ON THE AUDIOLOGY SPEECH-LANGUAGE PROPOSAL FOR A CHANGE IN SCOPE OF PRACTICE

**From: Joann Schaefer, M.D., Chief Medical Officer
Director, HHS Regulation and Licensure**

**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: March 28, 2007

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 Regulation and Licensure administers the Act. As Director of this Department, I am presenting this report under the authority of this Act.

Description of the Applicant Group and Summary of the Applicants' Proposal

The applicant group is the Nebraska Speech-Language and Hearing Association (NSLHA). The proposal would make the following changes in the scopes of practice of audiologists and speech-language pathologists:

For audiologists, the proposal would add the following provisions:

1. Cerumen (earwax) management to prevent obstruction of the external ear canal
2. Evaluation, selection, fitting, and dispensing of hearing aids and assistive devices without the need to obtain a separate license as a hearing aid fitter and dispenser
3. Define professional educational standards for audiology assistants
4. Specific language related to assessment of a patient's condition

For speech-language pathologists the proposal would add the following provisions:

1. Swallowing disorders (dysphagia)
2. Licensure for all practitioners (universal licensure)
3. Specific language pertinent to screening, assessment, treatment, and restorative functions

Summary of Review Body Recommendations

Technical Committee

The Technical Committee recommended in favor of the proposal.

State Board of Health

The Board of Health also recommended in favor of the proposal.

Both of these review bodies saw the proposal as a means of updating the statutes to meet twenty-first century practice realities and provide greater assurance that all practitioners meet the same practice standards.

Director's Report

The Director recommended against the approval of the proposal. The Director's decision was based upon the inclusion in the proposal, after the review process began, of a requirement for universal licensure of audiologists and speech-language pathologists.

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

The **first criterion** asks whether there is harm or potential for harm inherent in the current practice situation of the profession under review. I find that the current statutory provisions of both audiology and speech-language pathology are not consistent with current practice realities. They are unduly restrictive and misleading regarding the abilities of these two groups of health professionals to assess and treat hearing and speech-related conditions. For example, audiologists are appropriately trained to provide cerumen management to remove earwax from the external ear canal. Similarly, speech-language pathologists have developed skills and abilities pertinent to swallowing disorders, also known as dysphagia. However, the current statutory language does not provide for these kinds of services. I find that there is a significant problem with the current statutory situations of both of these applicant professions, and that the proposal satisfies criterion one.

The **second criterion** asks whether the proposal would be likely to create significant new harm to the public health and welfare that would cancel out any benefits that the public might attain from the proposal. The benefits offered by this proposal are significant pertinent to providing necessary updates to the statutes of these two professions. However, there is a provision in the proposal that raises concerns about the potential impact of the proposal on our public schools. This is the so-called universal licensure concept that was amended into the original applicant proposal after the review process was underway. Under this concept all speech-language pathologists practicing in Nebraska would be required to become licensed by the State. Intuitively this seems meritorious, and would hold promise of creating and maintaining a unified profession. However, the potential impact of this proposal on practitioners working in the public school system is a concern. Currently these practitioners are required to have a school certification credential, and not a license. The applicant group offered a limited grandfathering for those who have worked in the schools for at least one year over the last three years. This, however, would not be helpful for other school-based practitioners. The proposal could potentially disrupt services in the schools, and could be a rationale for those practitioners who wish to provide services only in the school setting to seek employment outside of Nebraska. Because of these concerns I find that the benefits of the proposal do not outweigh the concerns raised by the universal licensure provision that is part and parcel of the proposal. I find, therefore, that the proposal does not satisfy criterion two.

The **third criterion** asks whether the proposal would create significant benefit to the public health and welfare. The public would clearly benefit from the updating and clarification of the functions and services provided by audiologists and speech-language pathologists, as already discussed. Additionally, I believe that the provisions calling for the elimination of the requirement for dual licensure of audiologists as hearing aid fitters and dispensers is a positive step towards improving access to services in our State, especially in rural areas. I have seen no compelling evidence that there is a public need for this dual licensing situation.

Regarding the issue of the provision for universal licensure, creating universal licensure for all speech-language pathologists might be good for this profession per se, but I have seen nothing to indicate that this would significantly benefit the public. Those professionals employed by the public schools are employed for purposes other than the provision of health care. Requiring them to be licensed as health care providers does not seem to me to address a public need. Considering this point, and that the proposal must be acted upon as a single entity, I find that the proposal does not satisfy criterion three.

The **fourth criterion** asks whether the proposal would be the most cost-effective means of addressing the problems with the current practice situation. I find that the proposal is not the most cost-effective means of addressing problems associated with the delivery of audiology and speech-language pathology services. A more cost-effective approach to the problems raised by the applicant group is one that would have focused entirely on the practice issues raised by the original proposal, namely, those issues surrounding dysphagia, cerumen management, hearing aid fitting and dispensing, the inclusion of assessment and treatment provisions, and educational standards for assistants. The inclusion of universal licensure in the current version of the proposal seems to me to be an attempt to solve a non-existent problem.

This decision was reinforced by discussions that I recently had with representatives of the Nebraska Department of Education pertinent to the discipline of professional employees of the public school system. These discussions convinced me that speech-language pathologists employed in the public schools are effectively managed and their services are consistent with the scope of functions for which they were hired. I am satisfied that the Department of Education's disciplinary process effectively accomplishes our goal of protecting the public's health. I do not feel that it is necessary to create duplicative administrative and/or disciplinary processes. Therefore, I find that the universal licensure provision is not cost-effective, and since the proposal must be considered as an entity, I must conclude that the proposal also is not cost-effective.

By these four actions on the criteria I hereby recommend that the proposal not be approved.