

REPORT OF RECOMMENDATIONS AND FINDINGS

By the Hearing Care Professionals
Technical Review Committee

To the Nebraska State Board of Health, the
Director of the Division of Public Health, Department of Health and
Human Services, and the Members of the Health and Human
Services Committee of the Legislature

May 21, 2024

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Part One: Preliminary Information

Introduction

The Credentialing Review Program is a review process advisory to the Legislature which is designed to assess the need for state regulation of health professionals. The credentialing review statute requires that review bodies assess the need for credentialing proposals by examining whether such proposals are in the public interest.

The law directs those health occupations and professions seeking credentialing or a change in scope of practice to submit an application for review to the Department of Health and Human Services, Division of Public Health. The Director of this Division will then appoint an appropriate technical review committee to review the application and make recommendations regarding whether or not the application in question should be approved. These recommendations are made in accordance with statutory criteria contained in Section 71-6221 of the Nebraska Revised Statutes. These criteria focus the attention of committee members on the public health, safety, and welfare.

The recommendations of technical review committees take the form of written reports that are submitted to the State Board of Health and the Director of the Division along with any other materials requested by these review bodies. These two review bodies formulate their own independent reports on credentialing proposals. All reports that are generated by the program are submitted to the Legislature to assist state senators in their review of proposed legislation pertinent to the credentialing of health care professions.

**LIST OF MEMBERS OF THE HEARING CARE PROFESSIONALS TECHNICAL
REVIEW COMMITTEE**

Daniel Rosenthal, PE (Chair)
David Deemer, Nursing Home Administrator
Rebecca Wardlaw, ATC
Theresa Parker, CSW
Wendy McCarty, Ed.D.
Mark Malesker, PharmD, RP
Kevin Low, DDS

Part Two: Summary of Committee Recommendations

The members of the Hearing Care Professionals Technical Review Committee recommended against approval of the applicants' proposal.

Part Three: Summary of the Applicants' Proposal

Summary of the Original Proposal:

The purpose of the requested review is to enhance the authorized scopes of practice for licensed Audiologists, Hearing Instrument Specialists, and Hearing Instrument Dispensers to better serve hearing impaired patients throughout Nebraska. The proposed changes can be summarized as:

1. Allow Hearing Instrument Specialists to provide cerumen management.
2. Ensure that Hearing Instrument Specialists and Audiologists can order the dispensing of the newly created over the counter and prescription hearing aid categories following the August 2022 U.S. Food and Drug Administration final rule.
3. Provide a comprehensive description of what qualifies as "dispensing of hearing instruments".
4. Update filing and examination requirements as well as hearing assessment protocols.

The changes that the society would seek are through amendments to sections 38-511, 38-1501

Summary of the First Amended Version of the Proposal:

Janie York, a Hearing Instrument Specialist, responded to a request from the Committee members that someone from the applicant group provide them with a brief overview of the revisions to the proposal. Ms. York stated that the changes to the proposal in question include the following: 1) passing a cerumen removal course approved by their Board with a supervised practicum by any of the following health care professionals: an audiologist, a physician, or a physician's assistant. The course must be at least four clock-hours in duration. The course must include infection control verified for each candidate via a certificate of completion; 2) cerumen removal is to be limited to the outer cartilaginous one-third of a patient's external auditory canal; 3) applicant practitioners must refer patients to better qualified providers if they are: a) under eighteen years of age, or, b) have had previous ear surgeries, or, c) are currently experiencing pain or discomfort in their ear canals; 4) to qualify for tinnitus training an applicant provider must have two consecutive years of post-licensure experience and approval from the Board to take the course; 5) Tympanometry can only be utilized by applicant providers after two consecutive years of being a provider followed by completion and passage of a training course in tympanometry approved by the Board which then is to be followed by continuing education within one year of passing the training course in question.

Summary of the Second Amended Version of the Proposal:

The final amended version of the proposal states that:1) Tympanometry has been removed from the proposal entirely while tinnitus care would only be through tinnitus maskers in accordance with manufacturers audiology department staff; 2) Continuing education would be for the purpose of cerumen removal only and cerumen removal is now the principal reason for the changes in scope being sought; and, 3) Only persons defined as adults would be treated by the members of the applicant group. Under the amended proposal there would be more referrals to Audiologists from members of the applicant group.

The full text of the applicants' proposal can be found under the appropriate subject area of the credentialing review program link at <https://dhhs.ne.gov/Licensure/Pages/Credentialing-Review.aspx>

Part Four: Discussions on the Applicants' Proposal

Meeting One: Initial Comments on the Applicants' Proposal:

Opening Remarks by a Representative of the Nebraska Hearing Society

Jamie York, Hearing Instrument Specialist, came forward to make comments to the Committee members. Ms. York stated that ear wax removal is often a problem vis-à-vis testing for, and fitting for, hearing aids for patients, especially elderly patients. Ear wax removal is essential for accurate testing and fitting of hearing instruments, and it's vital that this procedure be done as safely, quickly, and expeditiously as possible so that patients can get the hearing care products they need to have in order to have a good quality of life. Ms. York went on to state that current restrictions on the scope of practice of Hearing Instrument Specialists often complicate this important health care goal. Current law and regulations do not allow these professionals to independently remove ear wax from patients, and if there are no other health professionals present to do this in a given health care setting—such as a nursing home for example—the patient or patients must be referred to facilities where they can get access to someone who can perform this procedure. Often, this involves transporting these persons to a far-away location in order to get their ear wax removed. This can be, and often is, a major problem for vulnerable elderly patients, some of whom are wheel-chair-bound and no longer able to transport themselves to a far away site for such a procedure. This situation makes for serious delays in getting access to care as well as adding a great deal of stress and angst to the daily lives of such vulnerable patients, some of whom refuse to be transported and in effect turn down an opportunity to enhance their lives by getting a hearing aid.

Ms. York went on to state that the solution to this access to care problem is to eliminate the current statutory restrictions on the ability of Hearing Instrument Specialists to remove ear wax for their clients in the facilities wherein they live thereby eliminating the need to transport these vulnerable patients to some far-away place to see an audiologist to get this procedure done. Ms. York went on to state that this is what the applicant group is proposing in its proposed revisions to their licensure statute. Ms. York went on to state that the proposal calls for additional training for Instrument Specialists and Dealers, both on-line and in-person, to ensure that they have the skills to safely and effectively provide this service for their patients.

Scott Jones, a Hearing Instrument Specialist, came forward to discuss matters pertinent to tinnitus and how treatment of this disease is complicated by current statutory restrictions on Hearing Instrument Specialists pertinent to ear wax. He stated that Hearing Instrument Specialists need more authority in treating tinnitus and that one way to do this is to allow them to remove ear wax which is often an underlying factor in tinnitus.

Dean Kent, an Audiologist and Instrument Dispenser, came forward to comment on concerns expressed about the proposed new education and training package being proposed for Hearing Instrument Specialists, stating that the model being touted by the State of Tennessee is one that has gained the support of hearing care professionals around the nation as a whole and advised that Nebraska adopt this model for its education and training program for Hearing Instrument Specialists.

Misti Chemiel, a Hearing Instrument Dealer, came forward to advocate for a model practice act for Hearing Instrument Dealers, a model act that is based on an International Standard and which addresses all aspects of the training and education necessary to provide Hearing Instrument Dealers with what they need to deal with maladies and conditions associated with ear wax. She closed out her remarks by stating that in rural Nebraska Hearing Instrument Dealers and Specialists are “there,” whereas Audiologists are not, not “there,” that is.

Questions for the applicant group from Committee Members

Mr. Rosenthal asked the applicants if the proposal is about services in Nebraska as a whole or just part of Nebraska as per rural Nebraska, for example. Jamie York responded that it is about all of Nebraska but that the rural dimension of the access issues in question is particularly vexing because of the distances involved if elderly people need to be transported and especially if more than one such person needs to be transported, given that multiple stops might have to be made to meet the needs of vulnerable people far removed from their familiar surroundings.

Theresa Parker asked the applicants whether or not Medicaid could be billed for the services in question. Jamie York responded by stating that they do not reimburse for this, rather, the nursing home pays the cost of these services.

Theresa Parker asked the applicants about the additional training that would be made available to Specialists and Dealers if the proposal were to pass. Jamie York gave an overview in which she said that there would be an on-line component and an in-person, hands-on component, the latter including a two-hour infection control component. The former would be a six-hour on-line didactic training course. Ms. Parker expressed doubts that eight-hours of training would be enough to ensure safe and effective delivery of services vis-à-vis the removal of ear wax.

Jamie York responded to concerns expressed about safety by stating that if an infection occurs or is noticed when services are to be delivered instrument Dealers and Specialists would be taught to immediately refer the patient to a physician or a physician assistant.

David Deemer asked the applicants who is liable for these services if the proposal were to pass and harm would occur to a patient as a result of the care delivered. Jamie York responded that the individual hearing care professional who delivered the services would be held liable.

Committee members Parker and Docter asked the applicants when a final, completed, and detailed version of the education and training in question would be made available. The applicants responded that the following states already have a version of this education and training in place and Nebraska's would be much the same. These states are as follows:

Alabama / Colorado / Florida / Kentucky / Maine / Minnesota / Mississippi / Utah

Dan Rosenthal asked the applicants if medical doctors can perform these kinds of procedures even if they have never done one before. Amy Reynoldson responded that a physician cannot claim to be competent to do this just because he or she happens to be a physician. They must demonstrate that the procedures in question are part of their regular medical practice.

Theresa Parker asked the applicants about oversight of these procedures if they were to become part of Instrument Dealer and /or Specialist scopes of practice. The applicants responded that their final, complete, educational model, which is based on that of Tennessee, would clarify these kinds of questions.

Opening Remarks by a Representative of the Nebraska Medical Association

Paul Henderson came forward to present comments on the proposal on behalf of the Nebraska Medical Association and stated that NMA is in support of the basic concept described in the applicant's proposal but has some concerns about some of the wording contained in this proposal. He went on to provide a few examples of items in the proposal that need to be clarified or which require more detail including 1) the need to clarify the details associated with referral procedures, 2) the need to clarify details pertinent to the dispensing of hearing instruments, and 3) the need to clarify exactly what would require "hands-on" training and what could be taught via on-line training, for example, and 4) Any previous surgery would require a referral to a physician for cerumen removal. He went on to state that the NMA would be working with the applicant group to address these matters and thereby help them improve their proposal.

Meeting Two: Ongoing Discussion on the Applicants' Proposal:

Responses to Questions by the Applicant Group

Jamie York, Hearing Instrument Specialist, came forward to respond to questions and comments raised during the first meeting about training programs in other states pertinent to the skills and abilities associated with the enhanced scope of practice under review. Mr. York stated that California, Colorado, Florida, Georgia, Kansas, Kentucky, and Minnesota have training programs in this area of care but that these training programs follow no common, standardized approach to training. Mr. York informed the committee members that the Nebraska Medical Association has an approved program for this learning including best practices, adding that NMA has indicated that it approves of the proposed training program defined in the current applicant proposal.

Mr. York continued his remarks by responding to concerns raised about the cost of ear wax removal under the terms of the proposal. He stated that there would be no charge for ear wax removal if the proposal were to pass.

Mr. York then commented about the recent letter-writing campaign by audiologists against the applicants' proposal by stating that this campaign includes accusations against the applicant group pertinent to their qualifications to provide the additional services defined in the proposal that are not accurate. He stated that the professionals that comprise the applicant group are qualified to provide the additional services in question and that these additional services would be a benefit to the public and would be provided safely and effectively. Mr. York went on to state that the applicant group did modify the proposal since the last meeting in response to NMA concerns that some aspects of the proposal were not as clear as they should be. He went on to state that NMA has indicated that they continue to support the applicants' proposal.

Questions from Committee Members:

Theresa Parker asked the applicants to clarify the term "medical liaison" as used in their proposal, adding that any final version of the proposal needs to provide such clarification. Ms. Parker then expressed the concern that at least some of the cerumen removal techniques defined in the proposal might be too invasive for some patients, specifically, elderly patients, for example. Ms. Parker stated that elderly patients often need a softening of their ear wax first so that it can be removed easily without needless risk of damage to the inner ear.

Pursuant to these concerns Ms. Parker asked the applicants what professionals would be prescribing for cerumen removal procedures. Ms. Parker followed up by asking whether such professionals would be the ones who would be defined as "medical liaison" providers. Ms. Parker continued by stating that concern for vulnerable patients is the reason why it is so important to know which professionals are the ones who would meet the definition of "medical liaison". Mr. Deemer stated that he shares these

concerns and that the applicants need to clarify who would be included under the general rubric of “medical liaison”.

Amy Reynoldson, representing NMA, came forward to comment on these concerns and informed the committee members that NMA continues to support the applicants’ proposal and that NMA does not share the concerns expressed by those opponents who have submitted letters expressing concerns about the safety of the proposal. Dan Rosenthal asked Amy Reynoldson if NMA’s position on the proposal are based upon public safety. Amy Reynoldson responded by stating that NMA regards the proposal as safe and effective and that it would improve access to important patient care.

Comments from Interested Parties

Audiologist Victor Bray spoke to express concerns about the safety of the proposal by stating that it would allow untrained persons to provide treatment of tinnitus and would place no limits on how untrained persons might attempt to remove cerumen. He went on to say that Audiologists are trained to provide such care during a two-year training course that addresses every aspect of the human audiological system, adding that the applicants’ training does not come close to matching this education and training. He went on to say that cerumen removal in the hands of untrained persons can result in unintended harm to the inner ear. Delicate nerves can be damaged by persons unaware of these dangers.

The applicants were asked to clarify what additional continuing education they would be required to take if their proposal were to pass. Mr. York responded that the applicants would provide a response regarding CE at the next meeting.

Dan Rosenthal commented that the current proposal as worded is vague as regards exactly what the proposal would allow instrument dealers and specialists to do or treat if it were to pass. Mr. York responded by stating that the applicants would provide clarification on these matters for the next meeting of the committee.

Audiologist Katherine Gameral commented that the proposal’s apparent focus on cerumen management overlooks the fact that the proposal would open-up other aspects of hearing care for which the applicants have little or no training including aspects of hearing care that are the exclusive practice of Audiologists, for example. She went on to say that there is nothing in the proposal to prevent or, in any way, limit the ability of the applicants to treat tinnitus or engage in testing procedures for other conditions of the middle ear, adding that there is nothing in the education or training the applicants that would provide them with the ability to provide these services safely and effectively. However, the proposal as currently worded would allow them to do these things.

Wendy McCarty expressed the concern that some of the comments from Audiologist testifiers seems to be based on turf concerns rather than on the actual thrust of the proposal which is cerumen management. Katherine Gameral responded to these

remarks by stating that her remarks were based upon the six criteria used in scope of practice reviews by the Credentialing Review Program.

Audiologist Sam Gillespie commented on the potential for new harm to the public from untrained providers attempting to remove cerumen including damage to the inner ear. He went on to state that the applicants need to clarify how and where they would place limits on cerumen removal by applicant practitioners as well as clarify what if any role they would be allowed to play in such things as tinnitus treatment or hearing testing, for example.

Audiologist Dean Kent indicated that he is in support of what the applicants are trying to do vis-à-vis providing improved access to cerumen removal procedures for vulnerable, elderly patients. He continued his remarks by asking opponents whether they would continue to oppose the applicants' proposal if they were to clarify that tinnitus treatment would not be a component of their proposal. Audiologist Sam Gillespie responded that he would continue to oppose the proposal because there would still be safety issues with this proposal that would be unacceptable to him. Mr. York responded that his group would be focusing on addressing all these concerns between now and the next meeting of the committee.

Audiologist Nikki Kopetzky came forward to express her opposition to the current applicant proposal, based on the following specific concerns:

- The inclusion of clinical diagnostic testing of the middle ear: the applicants are neither adequately trained nor adequately educated to do this;
- The proposed education and training is neither clearly defined nor adequately tested or measured to determine who would or would not be able to provide the new services safely and effectively;
- Pertinent to the supposed limitations on access to cerumen removal services, members of the nursing profession are trained to remove cerumen and do so, generally, under the oversight of a physician, providing a safer alternative to the idea of allowing instrument dealers and specialists to provide such services.
- Quiet room standards would not be met under the portability provisions defined by the proposal, and without these false results would be commonplace.

Information Requests from the TRC Members

Several members of the technical review committee indicated that the applicants need to clarify exactly what they are proposing pertinent to the scope of practice of instrument dealers and specialists as well as what the additional education, training, and testing would be to support this new scope of practice.

Meeting Three: Ongoing Discussion on the Applicants' Proposal:

Responses to Questions by the Applicant Group

Jamie York and Emit Jones, Hearing Instrument Specialists, came forward to respond to concerns raised during the second meeting about the need for greater clarity in the applicants' proposal regarding what invasive procedures the proposal would allow versus not allow the members of the applicant group to provide to hearing care patients. These applicant spokespersons informed the committee members that representatives of their group have been working with representatives of NMA and the Audiology profession to make changes in the proposal to address concerns about patient safety. Among the changes to be made are the following: 1) Rehabilitation provisions are to be removed from the proposal, and, 2) all provisions pertinent to Pediatrics are to be removed from the proposal.

Dean Kent, a hearing instrument dealer and business owner, came forward to make comments on behalf of the applicant's proposal. He provided the committee members with information on cerumen management, in general, and on methods by which hearing ability is measured, in particular. Mr. Kent stated that a thirty-second test is administered to a client to determine if there is blockage in the ear canal and, if so, to what extent there is such blockage. Mr. Kent stated that the members of the applicant group should be permitted to perform such measures but that this is not the case under their current scope of practice. Mr. Kent stated that such measures involve only the outer third of the ear canal and that if allowed to do such measure the applicants would not penetrate any deeper than this.

Mr. Kent informed the committee members that the thirty-second test is a "pass/fail" test for determining the degree of blockage by ear wax and is not in any way a diagnosis of a client's overall hearing condition. Theresa Parker asked Mr. Kent if the proposed eight-hour training course would be sufficient to ensure safe cerumen removal vis-à-vis vulnerable elderly clients. Mr. Kent responded by stating that there would be a two-year waiting period for those applicants who qualify for doing cerumen removal procedures and that this should suffice to ensure safe delivery of these services. He added that this requirement would be added to the text of the final version of the applicants' proposal.

Mark Malesker asked the applicants what additional CE would be provided for those who would be providing cerumen management. There would be a total of thirty-two hours of CE every two years plus a refresher course in cerumen management procedures.

Kelly Pritchett, an Audiologist, stated that the audiometry test referred to Mr. Kent is known as "Typanometry" and this is not pass/fail test, adding that being able to determine what such a test reveals requires the ability to interpret the results and do a diagnosis. She went on to state that the members of the applicant group lack the education and training to do this competently. Dean Kent responded by stating that one does not need to be able to interpret or do a diagnosis in order to measure hearing

volume, adding that the applicants would simply record the data provided by a Typanometry test and then follow indicated protocols regarding how to manage any cerumen that they might have. He added that the applicants have no intention of interpreting or attempting to diagnose a client's hearing condition, just removing ear wax, nothing more.

Nikki Kopetzky, an Audiologist, asked Mr. Kent to provide a credible source to document his claim that Typanometry can be used as a "pass/fail" instrument, adding that she knows of no way to use this test in such a manner and that interpretation and diagnosis are always components of such a testing process. Mr. Kent replied by stating that one can simply read what such a test records and then respond to the results via established protocols without engaging in either interpretation or diagnosis. Nikki Kopetzky continued to disagree with Mr. Kent and insisted that there is no way to avoid interpretation when using these kinds of tests, adding that this is why only Audiologists should use such tests.

Dan Rosenthal asked the applicants to submit a list of training elements that the proposal would provide for those who would be doing cerumen management. Nikki Kopetzky asked the applicants to provide a list of states that have passed similar proposals.

Meeting Four: Ongoing Discussion on the Applicants' Proposal:

Responses to Questions by the Applicant Group

Janie York, a Hearing Instrument Specialist, responded to a request from the Committee members that someone from the applicant group provide them with a brief overview of the latest revisions to the proposal. Ms. York stated that the changes to the proposal in question include the following: 1) passing a cerumen removal course approved by their Board with a supervised practicum by any of the following health care professionals: an audiologist, a physician, or a physician's assistant. The course must be at least four clock-hours in duration. The course must include infection control verified for each candidate via a certificate of completion; 2) cerumen removal is to be limited to the outer cartilaginous one-third of a patient's external auditory canal; 3) applicant practitioners must refer patients to better qualified providers if they are: a) under eighteen years of age, or, b) have had previous ear surgeries, or, c) are currently experiencing pain or discomfort in their ear canals; 4) to qualify for tinnitus training an applicant provider must have two consecutive years of post-licensure experience and approval from the Board to take the course; 5) Tympanometry can only be utilized by applicant providers after two consecutive years of being a provider followed by completion and passage of a training course in tympanometry approved by the Board which then is to be followed by continuing education within one year of passing the training course in question.

Nikki Kopetzky, an Audiologist, asked the applicants why they are even including tinnitus training in their training since there is no way they can provide this service to patients anyway given their erroneous assumptions about how procedures like tympanometry function in real time.

Nikki Kopetzky continued by articulating a list of concerns and questions that she said the applicant group needs to answer, to wit: 1) The amended proposal does not address concerns about any medications that a given patient might be taking that might impact their hearing or their ear canals; 2) The amended proposal does not clarify how an applicant provider would be able to evaluate a patient; 3) The amended proposal does not clarify how an applicant provider would measure tinnitus, nor does it clarify how the applicants would get access to necessary equipment or get necessary training to use such equipment; 4) The applicants are wise to remove persons who are vulnerable medically or vulnerable for reasons of age from consideration as patients for their expanded practice, but the amended proposal continues to have inconsistencies in this regard that need to be addressed and or edited out, as it were.

Nikki Kopetzky continued by asking the applicants who, or what organization, would be providing the proposed training course. Would it be online? Or, if not, would the trainers be independent contractors? Or, would they be prospective employers?

Nikki Kopetzky continued by commenting that the instruments used to provide the care under review are dangerous and that those who train people to use them not only need

to teach the right things vis-à-vis safe practices but must also maintain oversight of the trainees during the training process to be ensure that trainees have learned to use these devices safely and effectively. Ms. Kopetzky went on to advise the applicant group to get the necessary training first before seeking a scope change and added that it seems to her that the applicants have got “the-cart-before-the-horse” as regards the issue of education and training.

Nikki Kopetzky continued by expressing concerns about grandfathering, adding that the proposal does not disallow grandfathering of unqualified providers.

Ms. Kopezky went on to state that the applicants do not have the ability to bill a patient’s insurance company for services rendered whereas she as an Audiologist does have this ability. She added that the testing process seems to be too open-ended and that there continues to be too many other unclear articulations in the amended proposal such as “tinnitus care” for example and “reasonable distance” for example, adding that such provisions are neither clear nor enforceable.

Committee member Mark Malesker asked the applicants what training is available? Scott Jones, a Hearing Instrument Specialist, responded that there are courses “out there.”

Program staff asked the Committee members if they are ready for the next meeting to be the public hearing. A majority of those present or online indicated that they are not yet ready for a public hearing and that the applicants need to make additional clarifications to their proposal.

Meeting Five: Ongoing Discussion on the Applicants' Proposal:

Responses to Questions by the Applicant Group

Misty Schmiel, Executive Director of the Nebraska Hearing Society, presented the revised applicant proposal to the Committee members. Misty's comments presented the summary of the text of the amended proposal which states as follows: 1) Tympanometry has been removed from the proposal entirely while tinnitus care would only be through tinnitus maskers in accordance with manufacturers audiology department staff; 2) Continuing education would be for the purpose of cerumen removal only and cerumen removal is now the principal reason for the changes in scope being sought; and, 3) Only persons defined as adults would be treated by the members of the applicant group. Ms. Schmiel went on to state that under the amended proposal there would be more referrals to Audiologists from members of the applicant group, adding that the additional training would be helpful vis-à-vis matters pertinent to making an appropriate referral. Ms. Schmiel commented that nine states are pursuing very similar proposals this year.

Dr. Nikki Kopetzky, an Audiologist, came forward to comment on the revised proposal on behalf of those Audiologists who are opposed to the proposal. Dr. Kopetzky commented that it's hard to track from one amended version of the proposal to another. Dr. Kopetzky went on to state that the proposal should not call those whom they would treat "patients" rather they are "clients" because the members of the applicant group are not health care providers, rather, they are businesspeople and technology experts. She went on to state that if the applicants are eventually allowed to remove ear wax there would need to be medical triage present to ensure patient safety. As far as hearing tests are concerned, she went on to state that the only hearing tests that are accurate are those conducted in a sound booth. Otherwise, such tests need to be redone for the sake of accuracy. Pertinent to the referral process referenced by the applicant group Dr. Kopetzky stated that the applicants are not medically trained and are therefore not capable of an appropriate referral. Protocols would be needed to validate referral criteria and as of right now there are none in the amended proposal. Additionally, a valid referral would need to be based upon a valid and medically articulated diagnosis of the patient in question and it is common knowledge that the applicants are not capable of performing a diagnosis.

Dr. Kopetzky then commented on tinnitus care by stating that this should be completely removed from the proposal but, as yet, this has not happened.

Dr. Kopetzky expressed concern about the fact that the proposal would allow out-of-state audiologists to participate in the care of Nebraska patients without demonstrating that they are duly licensed vis-à-vis Nebraska standards to do so.

Dr. Kopetzky expressed concern about certain provisions of the amended proposal that seem to limit or restrict the authority of audiologists to dispense necessary items for the treatment of their patients. These items should be removed from the proposal.

Meeting Six: Formulation of Recommendations by the Technical Committee Members:

Committee action on the Six Statutory Criteria as They Pertain to this Proposal:

Action on the Six Scope of Practice Criteria

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

Rebecca Docter, Yes, There are access to care issues under the current situation

David Deemer, Yes, There are access to care issues under the current situation

Theresa Parker, Yes, There are access to care issues under the current situation

Wendy McCarty, Yes, There are access to care issues under the current situation

Mark Malesker, No,

Kevin Low, No,

Dan Rosenthal, Abstained

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

Rebecca Docter, No,

David Deemer, Yes, Allowing the applicants to provide these services would provide better access

Theresa Parker, No, There are too many unresolved safety concerns with this proposal

Wendy McCarty, Yes, The amended proposal would provide safe and effective services

Mark Malesker, No, There are too many unresolved safety concerns with this proposal

Kevin Low, Yes,

Dan Rosenthal, Abstained

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

Rebecca Docter, No,

David Deemer, No, The proposed training is too limited to ensure safe and effective services

Theresa Parker, No, The proposed training is too limited to ensure safe and effective services

Wendy McCarty, Yes, The amended proposal would provide safe and effective services

Mark Malesker, No, The proposed training is too limited to ensure safe and effective services

Kevin Low, Yes,

Dan Rosenthal, Abstained

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

Rebecca Docter, No,

David Deemer, No, Proposed applicant group education and training provisions would be inadequate to ensure safe and effective care

Theresa Parker, No, Proposed applicant group education and training provisions would be inadequate to ensure safe and effective care

Wendy McCarty, No, The current training is not adequate but the amended training would be adequate

Mark Malesker, No, Proposed applicant group education and training provisions would be inadequate to ensure safe and effective care

Kevin Low, No,

Dan Rosenthal, Abstained

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

Rebecca Docter, No

David Deemer, No, There is training available but this is not included in the current proposal

Theresa Parker, No

Wendy McCarty, No

Mark Malesker, No

Kevin Low, No

Dan Rosenthal, Abstained

Criterion Six: 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

Rebecca Docter, No

David Deemer, No

Theresa Parker, No

Wendy McCarty, No

Mark Malesker, No

Kevin Low, No

Dan Rosenthal, Abstained

Action taken on the proposal as a whole:

The Committee members took action on the proposal as a whole via an up/down roll call vote as follows:

Rebecca Docter, No,

David Deemer, No, There are too many safety concerns to approve this proposal

Theresa Parker, No, Applicant group education and training provisions would be inadequate to ensure safe and effective care

Wendy McCarty, Yes, The proposed education and training would enable the applicants to provide safe and effective care

Mark Malesker, No, Proposed applicant group education and training provisions would be inadequate to ensure safe and effective care

Kevin Low, Yes,

Dan Rosenthal, Abstained

The results of this roll call vote:

By this action the Committee members decided to recommend against approval of the applicants' proposal.

All sources used to create Part Five of this report can be found on the credentialing review program link at

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

