My name is Stephanie Czuhajewski. S-T-E-P-H-A-N-I-E-C-Z-U-H-A-J-E-W-S-K-I

I serve as the Executive Director of the Academy of Doctors of Audiology (ADA), which represents audiologists in Nebraska and across the United States. ADA and its members advocate for evidence-based clinical and business practices in the delivery of hearing and balance healthcare.

The International Hearing Society (IHS) an international membership organization, representing hearing aid specialists globally, and its affiliated Chapter, the Nebraska Hearing Society (NHS), are jointly the applicant groups and co-authors of the proposal, "Nebraska Credentialing Review for the Nebraska Hearing Society," hereafter (Proposal).

ADA appreciates the opportunity to provide testimony in opposition to the Proposal put forward by IHS and NHS. ADA has identified significant deficiencies within the Proposal as evaluated against the six criteria established by the Nebraska Credentialing Review Program and its Manual of Procedures for Review Bodies. I previously submitted this as written testimony and request that it be made part of the record.

ADA strongly opposes the IHS/NHS Proposal for the following reasons:

1. **The health, safety, and welfare of the public are already adequately addressed by the present scope of practice or limitations on the scope of practice, and this Proposal is both unneeded and unwarranted.**

Nebraska's current scope of practice for hearing instrument specialists (HIS) appropriately recognizes their function as primarily that of a consultative salesperson, who performs hearing evaluations that are limited to testing for the purpose of selling, dispensing, and fitting a hearing aid. The current scope of practice for Nebraska hearing aid specialists is consistent with most states. The limitations that current Nebraska statutes impose on hearing instrument specialists' scope of practice are consistent with those of nearly every other state and reflective of the education, training, and qualifications of hearing instrument specialists.

Forty-seven (47) states, including Nebraska restrict hearing instrument specialists to performing hearing testing solely for the purpose of selecting, fitting, adapting, and/or selling a hearing aid. The current Nebraska hearing instrument specialist statute requires the following statement to be included with a receipt for sale for hearing aids sold by a hearing instrument specialist:

"The purchaser has been advised at the outset of his or her relationship with the hearing instrument specialist that any examination or representation made by a licensed hearing instrument specialist in connection with the fitting and selling of this hearing instrument is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this state and therefor must not be regarded as medical opinion or advice."

This required consumer disclosure from hearing instrument specialists in Nebraska and in many jurisdictions across the United States provides essential information to consumers. The NHS/IHS Proposal would eliminate this provision and many other fundamental consumer protections, which were constructed to provide appropriate limitations on the hearing instrument specialists' scope of practice.

2. **Enactment of the proposed change in scope of practice will undermine the health, safety, and welfare of the public.**

The IHS/NHS Proposal will authorize hearing instrument specialists to perform audiologic diagnostic and treatment services without commensurate education, training, or supervision, posing significant risks of physical and financial harm to the citizens of Nebraska. As my colleagues have already clearly testified, the Proposal is completely out of step with evidence-based clinical practices in the delivery of audiologic care and will undermine the health and safety of consumers.

In addition to the array of flaws already identified, the Proposal includes provisions that would arbitrarily require a face-to-face visit and mandatory testing procedures, prior to the dispensing of a hearing aid. This provision will constrain competition, reduce consumer choice, impede access to care, and increase costs to the consumer.

Technological advances and evidence-based innovations have made remote care (including testing and fitting a hearing aid) viable options for consumers, who would prefer to access services via telehealth. Laws that streamline telehealth should not be undermined—they should be protected in statute to support consumer access, enhance competition, and reduce costs, particularly for patients in rural areas. The Proposal's inclusion of protectionist provisions are designed to steer patients into retail clinics that advantage Proposal sponsors, and will in no way improve access to quality audiologic care.

3. **The proposed change in scope of practice creates significant new dangers to the health, safety, and welfare of the public.**

IHS and NHS have repeatedly stated that the vast majority of states have adopted the IHS Model Licensure Act. **That statement is false.** Should Nebraska implement the sweeping statutory changes to the scope of practice of hearing aid specialists as those contained in the Proposal it would be the first state in the nation to do so.

ADA has researched the hearing aid specialist/dispensing act statutes corresponding to the list of states that IHS and NHS identified as those having adopted the IHS Model Licensure Act and has found the following:

- Not only has none of the states on any of the lists provided by IHS and NHS adopted the IHS Model Licensure Act in its entirety, none of the states on any of the lists provided by IHS and NHS has even adopted the IHS Model Licensure Statute definition of hearing aid dispensing.

During her April 2, 2024 testimony, NHS executive director, Misti Chmiel, presented a list of states including Arkansas, Kansas, Mississippi, New Hampshire, North Carolina, Tennessee, Utah, Wisconsin and South Dakota, which she claimed have all updated their dispensing statutes to include cerumen

management services as part of a hearing aid specialist's scope of practice. No evidence was provided to support that statement. **The statement is false.**

ADA's independent review of these states' statutes has only identified only four states in all of the United States, North Carolina, South Dakota, Tennessee, and Wisconsin, as those having statutes that permit cerumen removal as part of the statutorily defined scope of practice for hearing aid specialists. I have attached evidence to support this analysis.

It is also important to note that in September 2023, the State of Delaware took specific action and enacted new amendments to its hearing instrument specialist practice statute, to specifically prohibit a hearing aid dispenser from providing cerumen management services, adapting or adjusting prescription hearing aids to conduct sound therapy treatment for tinnitus management, or verbally or in writing making a statement or reference to a prospective prescription hearing aid user regarding any audiologic or medical condition or diagnosis.

During her testimony, Ms. Chmiel also stated that nine additional states use quote *"all encompassing"* terms covering all or any services or testing procedures including: Florida, Idaho, Louisiana, Massachusetts, Montana, New Jersey, New York, Ohio and South Carolina.

That statement is false.

In each of the states referenced by Ms. Chmiel, the testing procedures performed by hearing aid specialists are for the sole purpose of fitting, selling, and/or selecting a hearing aid and not for the purpose of diagnosing or treating an audiologic condition or providing any sort of professional clinical advice. I have enclosed a spreadsheet containing the references and sources for those findings.

In fact, each of those states' laws defining the practice of fitting hearing aids are consistent with Nebraska's current statute, which is further evidence that the health, safety, and welfare of the public are already adequately addressed by the present scope of practice or limitations on the scope of practice, and this Proposal is both unneeded and unwarranted.

Only one other state, North Carolina, has adopted statutory provisions that include both cerumen management and tinnitus treatment services within a hearing instrument specialist's scope of practice.

ADA has established with facts and evidence that the current Nebraska hearing aid dispensing statute is far more aligned with hearing instrument specialists nationwide than the proposed scope expansion. This Proposal seeks to inappropriately, dramatically expand the hearing aid specialist scope of practice in Nebraska, with a goal of exploiting the change for the purpose of similarly detrimentally changing laws in other states. This Proposal will not bring Nebraska in line with other state laws, it will decimate existing, necessary consumer protections in Nebraska and beyond, to advantage one organization and its key stakeholders.

4. **The current education and training for hearing instrument specialists does not adequately prepare them to perform the new skill or service.**

The requirements for licensure for hearing instrument specialists in the State of Nebraska include being 21 year of age or older, completing high-school or an equivalent, and passing a written and practical examination that per Nebraska statute "shall not be conducted in such a manner that college training is required in order to pass."

Statutes governing qualifications for Nebraska hearing instrument specialists explicitly prohibit requiring the type of education, training, and evaluation that would qualify one to perform cerumen removal or to diagnose and treat audiologic conditions, as a condition of HIS licensure. In contrast, Nebraska's audiology practice statutes, which include cerumen management, require licensees to obtain a doctoral degree, 36-weeks of full-time supervised professional experience, and successful completion of a national exam. Other healthcare providers who independently perform cerumen management services in Nebraska, such as physicians, physician assistants, and advanced practice nurses, also receive extensive post-secondary education and clinical training.

5. **The Proposal does not include appropriate post-professional programs and competency assessment measures available to assure that hearing instrument specialists are competent to perform the new skill or service in a safe manner.**

The Proposal acknowledges that hearing instrument specialists are not qualified and cannot be fully qualified to independently perform cerumen removal or manage its complications. The Proposal attempts to resolve this fundamental flaw by conjuring up a "medical liaison" position, which would serve as a makeshift consultant in an attempt to legitimize the scope expansion. Unfortunately, the "medical liaison" role, offers no additional protections for consumers and may instead create a false perception of medical oversight or supervision, where none exists. Given that cerumen removal is among the most common procedures to result in otology malpractice complaints, and, given that cerumen removal malpractice complaints are the most likely to lead to payment of the malpractice claim, it is not enough to rely on an ill-defined medical liaison to serve as the only safety net to protect unwitting consumers from the potential harm that cerumen removal by an unqualified provider imposes.

Similarly, rather than offering appropriate post-professional programs and competency assessment measures, the most recent IHS-NHS Proposal now meaningfully incorporates manufacturer audiologists as hearing instrument specialist extenders, with responsibility for assessing tinnitus and determining when to activate tinnitus maskers contained in hearing aids—presumably the same hearing aids on which they will both profit. The current iteration of the Proposal is clinically irresponsible, practically infeasible, and only structured to steer patients toward expensive hearing aids bundled with low-quality, high-risk tinnitus services from potentially unlicensed (out of state) manufacturer-employed audiologists, who do not specialize in treating tinnitus.

Upon careful reading, the Proposal includes no additional educational or training requirements for licensure as a hearing instrument specialist in Nebraska beyond what is required today. The Proposal provides no concrete plan for assuring that hearing instrument specialists will be competent to perform diagnostic, cerumen, and tinnitus services in a safe manner. They have instead provided false and misleading information to the committee, regarding the potential for training.

Ms. Chmiel provided testimony, verbally and in writing, referencing an online cerumen management course, delivered by Dr. Rita Chaiken, a leading authority in cerumen management in 2020. Ms. Chmiel's statement made a point to identify Dr. Chaiken as a past president of the ADA and to infer that Dr. Chaiken's in-person courses could be available to NHS licensees in the future, thus leading the audience to believe that Dr. Chaiken was either supportive of the Proposal or at least not opposed to providing fundamental educational resources to support its implementation. **That testimony was false and misleading.** Dr. Chaiken has provided a letter in response, which has been posted and which I will now read into the record.

> *Dear Ms. Chmiel,*
> *I have read your correspondence dated March 14, 2024, and am responding to the section regarding cerumen management which references an educational opportunity I made available to your organization. While the presentation was for the purpose of educating the participants about the area of cerumen management, it was not ever intended to be a training to provide such services. Since it was only a three-hour didactic lecture, it did not include the additional hours of hands-on training included in a workshop for practicing audiologists and AuD candidates.*
>
> *To be clear, I do not, nor have I ever, endorsed or supported Nebraska's Hearing Instrument Specialists performing cerumen management services to patients. In fact, I responded to a September 12, 2023, request from Janie York to teach a hands-on workshop for your members noting that I limit my workshops to audiologists and AuD candidates.*
>
> *Respectfully,*
>
> *Rita R. Chaiken, AuD*
> *President [Atlanta Audiology Services]*

6. **The Proposal does not include adequate measures to assess whether hearing instrument specialists are competently performing the new skill or service and to take appropriate action if they are not performing competently.**

The Proposal would require education, training, testing, and license maintenance provisions that unduly benefits IHS, and its legal affiliates, NHS and the National Board for Certification in Hearing Instrument Sciences (NBC-HIS) financially and strategically. ADA's October 15, 2023 letter provides a comprehensive review of the wide range of provisions that IHS and NHS included in the Proposal that are designed to

advance the financial, political, and strategic goals of IHS and its affiliates to the detriment of Nebraska consumers. I encourage the Committee to carefully consider that information in its evaluation of criterion six.

The Proposal would allow IHS and its affiliates to unilaterally govern licensure, training, and competency requirements for hearing instrument specialists with impunity. It includes provisions that present conflicts of interest that will undermine transparency, quality, and standardization in care delivery and serve no legitimate public interest. **The Proposal removes the clear HIS licensure exam content outline in 38-1514 and replaces it with an ambiguous process that includes provisions that advantage IHS/NHS and their members.** The proposed revisions in 38-1514 also provide excessive opportunities for retesting for candidates who fail the exam, leading to concerns that candidates will simply be pushed through one way or another.

IHS and NHS representatives asserted that Nebraska laws need to be updated because they don't align with the IHS-governed and IHS-written ILE exam. That is completely irrational. Instead of asking why Nebraska's scope of practice statute doesn't align with the current iteration of the IHS-directed ILE exam, we should be asking why the IHS-developed ILE test questions are veering well outside the scope of practice of the states where most of its licensure candidates and licensees reside. The ILE exam should instead be modified to reflect the scope of practice in Nebraska and the 46 other states with comparable hearing instrument specialist practice acts.

The Proposal, when evaluated objectively, using evidence, does not meet the criteria required for advancement. Nebraska's requirements for evaluation of the Proposal include the following:

"In general, the greatest weight should be given to evidence that has been generated by unbiased sources, sources that explicitly take into account the protection of the public and which provide statistical or scientific data to support conclusions. If applicable, studies from peer reviewed journals are encouraged. In the absence or inapplicability of such evidence, review bodies should seek information from published sources directly relevant to the criteria from which generalizations may be made. While individual experiences and anecdotes represent valid events, they do not provide information that, standing alone, can justify a change in public policy. Such evidence should only be considered to the extent that it reinforces more objective evidence."

In addition to being wholly lacking in evidence, major elements of the IHS/NHS Proposal and arguments presented by IHS and NHS in support of the Proposal are based on faulty, false, misleading, incomplete information and/or information taken out of context. ADA, therefore, encourages the committee to reject the Proposal in its entirety.

Thank you for your consideration.