

**DRAFT MINUTES**  
**of the Second Meeting of the**  
**Hearing Care Professionals Technical Review Committee**  
**October 17, 2023**  
**9:00 a.m. to Noon**

**TRC Members Present**

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

**TRC Members Absent**

**Program Staff Present**

Matt Gelvin  
Ron Briel  
Jessie Enfield

**I. Call to Order, Roll Call, Approval of the Agenda**

Chairperson Rosenthal called the meeting to order at 9:00 a.m. The roll was called; a quorum was present. Mr. Rosenthal welcomed all attendees and informed attendees that the agenda for the meeting and the Open Meetings Law were posted and the meeting was advertised online at <https://dhhs.ne.gov/Licensure/Pages/Credentialing-Review.aspx> . The committee members unanimously approved the agenda for the second meeting and the minutes of the first meeting.

**II. 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.

### **III. 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 Gamerl 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 Gamerl 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.

#### **IV. 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.

**V. Public Comments**

There were no additional public comments at this time.

**VI. Other Business and Adjournment**

There being no further business, the committee members unanimously agreed to adjourn the meeting at 10:40 a.m. The next meeting of this TRC is scheduled for 9:00 a.m. on November 21, 2023, in the Otoe Room in the lower level of the Nebraska State Office Building.