

**REPORT OF RECOMMENDATIONS AND FINDINGS ON THE
PROPOSAL TO MAKE CHANGES IN RESPIRATORY THERAPY
SCOPE OF PRACTICE**

By the Nebraska State Board of Health

To the Director of the Division of Public Health of the Department of
Health and Human Services and the Members of the Health and
Human Services Committee of the Legislature

January 24, 2022

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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 NEBRASKA STATE BOARD OF HEALTH

Joel Bessmer, MD

Russell Crotty, OD

Shane Fleming, BSN, MSN, RN

Diane Jackson, APRN-FNP

Michael Kotopka, DDS

John Kuehn, DVM

Donald Ostdiek, DPT

Colton Palmer, PMHNP

Mark Patefield, PharmD

David Reese

Daniel Rosenthal, PE

Robert (Bud) Synhorst

Timothy Tesmer, MD

Douglas Vander Broek, DC

Dan Vehle

Joshua Vest, DPM

The Board's Credentialing Review Committee met in the morning of January 24, 2022 to formulate its recommendations on the proposal.

The members of the full Board of Health met in the afternoon of January 24, 2022 to formulate their recommendations on the proposal.

Part Two: Summary of Board of Health Recommendations

The Board Committee members recommended approval of the proposal by a vote of 6-0.

The members of the full Board recommended approval of the proposal by a vote of 11-0.

Part Three: Summary of the Applicants' Proposal

Current Respiratory Scope of Practice from Section 38-3205 Nebraska Revised Statutes:

Respiratory care means the health specialty responsible for the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system. Respiratory care shall not be limited to a hospital setting and shall include the therapeutic and diagnostic use of medical gases, administering apparatus, humidification and aerosols, ventilator assistance and ventilatory control, postural drainage, chest physiotherapy and breathing exercises, respiratory rehabilitation, cardiopulmonary resuscitation, and maintenance of nasal or oral endotracheal tubes. Respiratory care shall also include the administration of aerosol and inhalant medications to the cardiorespiratory system and specific respiratory techniques employed in respiratory care to assist in diagnosis, monitoring, treatment, and research. Such techniques shall include, but not limited to, measurement of ventilatory volumes, pressures. And flows, measurement of physiologic partial pressures, pulmonary function testing, and hemodynamic and other related physiological monitoring of the cardiopulmonary system.

Proposed Language Changes for Section 38-3205 Nebraska Revised Statutes:

Respiratory care is defined as the health specialty responsible for the treatment, management, diagnostic testing, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system. Respiratory care shall not be limited to a hospital setting and shall include the therapeutic and diagnostic management and maintenance of medical gases, administering apparatus, humidification and aerosols, ventilatory management, postural drainage, chest physiotherapy and breathing exercises, cardiopulmonary resuscitation and rehabilitation, maintenance and insertion of lines, drains, and artificial and non-artificial airways without cutting tissues. Respiratory care shall also include the administration of all pharmacological, diagnostic and therapeutic agents for the treatment and diagnosis of cardiopulmonary disease which the Respiratory Care Practitioner has been professionally trained or has obtained advanced education or certification. This includes specific testing techniques employed in respiratory care to assist in diagnosis, monitoring, treatment, and research on how specific cardiopulmonary diseases affect the patient. Such techniques shall include, but not be limited to, management of ventilatory volumes, pressures and flows, measurement of physiological partial pressures, pulmonary function testing, and hemodynamic and insertion lines related to physiological monitoring of the cardiopulmonary system.

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

Part Four: The Recommendations of the Members of the Credentialing Review Committee of the Board of Health on the Respiratory Therapy Proposal

Bud Synhorst, Chairperson of the Respiratory Therapy Technical Review Committee, commented that the Technical Review Committee members were unanimous in their support for the Respiratory Therapy proposal. Mr. Synhorst went on to say that all representatives of interested parties also expressed their support for the proposal, and that both they and the committee members understood that updating the Respiratory Therapy statute after nearly forty years since it was last reviewed or legislated is of critical importance to the continuance of vital services already being provided by Respiratory Therapists such as “ECMO,” for example.

Heather Nichols, President of the NSRC, provided an overview of the proposal and then commented on the importance of updating the RT statute so that it covers vital life-saving services that RTs have come to provide since the creation of their current statute in 1986 when many of these vital services hadn’t yet come into existence. Ms. Nichols added that the current Covid-19 pandemic has drawn attention to the fact that much of what RTs do in the provision of such things as “ECMO” services is occurring beyond the scope of practice defined by the current version of the RT statute, and that this situation needs to be rectified as soon as possible in order to prevent a disruption in services that could occur if the inadequacy of the current RT statute were to become a point of public controversy.

Shane Fleming asked Heather Nichols if the concerns raised by her group have been issues in other states as well. Ms. Nichols responded that most states have already updated their RT scopes of practice many years ago. Douglas Vander Broek asked Heather Nichols whether or not all RTs are adequately trained to satisfy the practice standards defined in the proposal once it becomes law. Heather Nichols responded that all RTs already receive all necessary education and training associated with the proposed additions to the RT scope of practice in the RT proposal.

Credentialing Review Committee Recommendations on the Respiratory Therapy Proposal

The Board’s Credentialing Review Committee members made their recommendation on the proposal via a yes / no, up-down vote, as follows:

Voting “yes” to recommend approval of this proposal were: Shane Fleming, BSN, MSN, RN; David Reese; Daniel Rosenthal, PE; Robert (Bud) Synhorst; Douglas Vander Broek, DC; John Kuehn, DVM

Voting “no” to recommend against approval of this proposal were: There were no “nay” votes or abstentions. Two committee members were absent during the voting.

By this vote the Board’s Credentialing Review Committee members recommended approval of the proposal.

Part Five: The Recommendations of the Members of the Full Board of Health on the Respiratory Therapy Proposal

Comments by the Members of the Full Board of Health and Respiratory Therapy representatives

Bud Synhorst, Chairperson of the RT TRC, reprised comments that he made during the morning meeting of the Board's Credentialing Review Committee by stating that the Technical Review Committee members were unanimous in their support for the RT proposal, and that all representatives of interested parties also expressed their support for the RT proposal, and that both they and the committee members understood that updating the RT statute after nearly forty years since it was last reviewed or legislated is of critical importance to the continuance of vital services already being provided by RTs such as "ECMO," for example.

Heather Nichols, President of the NSRC, briefly summarized the Respiratory Therapy proposal and then commented on the importance of updating the RT statute so that it covers vital life-saving services that RTs have come to provide since the creation of their current statute in 1986. Ms. Nichols added that the current Covid-19 pandemic has drawn attention to the fact that much of what RTs do in the provision of such things as "ECMO" services is occurring beyond the scope of practice defined by the current version of the RT statute, and that this situation needs to be rectified to ensure the continuance of vital services to Nebraskans such as "ECMO," a service that is staffed mostly by RTs.

The recommendations of the members of the full Board of Health on the Respiratory Therapy proposal

The Board of Health members made their recommendation on the proposal via a yes / no, up-down vote on the recommendation of their Credentialing Review Committee, as follows: Voting "yes" to recommend approval of this committee's recommendation which was to recommend approval of the applicants' proposal were:

Russell Crotty, OD
Shane Fleming, BSN, MSN, RN
Michael Kotopka, DDS
Donald Ostdiek, DPT
David Reese
Daniel Rosenthal, PE
Robert (Bud) Synhorst
Timothy Tesmer, MD
Douglas Vander Broek, DC
Dan Vehle
Joshua Vest, DPM

Voting "no" to recommend against approval of this committee's recommendation which was to recommend approval of the applicants' proposal were:

There were no nay votes or abstentions. Five Board members were absent during the voting.

By this vote the full Board of Health members recommended approval of the proposal.