

REPORT OF RECOMMENDATIONS AND FINDINGS

By the Respiratory Therapy
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

January 11, 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 RESPIRATORY THERAPY TECHNICAL REVIEW
COMMITTEE**

Robert Synhorst

Su Eells

Larry Hardesty

Michael J. O'hara, J.D., Ph.D.

Rebecca Docter, MA, ATC

Ryan Flugge, RP, PharmD, BCPS

Jeromy Warner, PsyD, LP

Part Two: Summary of Committee Recommendations

The committee members recommended approval of the applicants' proposal.

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

Part Four: Discussion on issues by the Committee Members

Initial Applicant Comments followed by Initial Committee Discussion

Heather Nichols, RT, came forward to briefly summarize the Respiratory Therapy proposal. Ms. Nichols stated that after nearly forty years the RT licensure statute passed in 1986 contains definitions and provisions that are now out-of-date and that this statute is in great need of an update. Ms. Nichols cited examples of provisions in this statute that need to be updated such as terms pertinent to the management of the respiratory conditions of cardiopulmonary patients inclusive of oxygenation, inhalation, and the administration of medications needed to manage the respiratory conditions of cardiopulmonary patients.

Dr. Michael J. O'Hara commented that his reading of the proposal indicated to him that the applicant's proposal seems only to delete text from the current RT statute without adding anything to replace the deleted text, and asked the applicants for a clarification on this.

Heather Nichols responded by stating that what Dr. O'Hara observed in his review of the proposal reflects major changes in how RTs provide their services since the current statute was written in 1985. Ms. Nichols continued by stating that RTs do less technical work than they used to do, on the one hand, while doing much more management of the technical aspects of providing respiratory care than they used to do, on the other hand. Ms. Nichols added that the current wording is too narrow to accurately characterize what RTs do today and that it implies that all RTs do is installation and aerosol. This isn't true anymore.

Ryan Flugge asked the applicants what other routes of administration RTs utilize now that are not yet identified in their current statute. Heather Nichols responded by stating that RTs now place fluid ECMO which is not recognized in their current statute, adding that this provision needs to be included in their statute.

Jeromy Warner asked the applicants to comment on what changes might occur as a result of their proposal if it were to pass. Heather Nichols responded by stating that the proposal might result in the creation of new duties and responsibilities, not just revisions pertinent to the way current duties and responsibilities are administered, for example, adding that there is no way to guess what exactly these might be at this point in time. Ms. Nichols added that, in addition to these kinds of changes, there could be significant changes in the kind of work settings wherein RTs might be allowed to provide their services, and that these might be in what is often referred to as "outreach-settings," for example.

Su Eells commented that there are relatively few RTs in remote rural areas of Nebraska and that the proposal might offer greater opportunities for rural out-reach by RTs if it were to pass.

Bridget Norton with Nebraska Children's Hospital commented that Nebraskans need expanded services from their RTs including expanded services vis-à-vis medications as well as expanded work site venues for remote rural areas.

Dr. O'Hara commented that twenty-three Nebraska counties have no RTs at all, adding that what is needed is a "traveling-RT" concept to help these counties. Mr. O'Hara stated that the source of this information is figure 23 on page 29 of "The Status of Nebraska Healthcare

Workforce: Update 2020” which can be found at https://www.unmc.edu/publichealth/chp/ documents/Workforce_2020.pdf

Heather Nichols responded that the key RT service of concern vis-à-vis these kinds of access issues is the provision of ECMO services. Ms. Nichols continued by stating that the proposal would allow all licensed RTs to provide the key RT service of concern vis-à-vis these kinds of access issues which is the provision of ECMO. However, it is unclear whether or not hospital employers of RTs would allow all RTs to provide ECMO via outreach even if the proposal were to pass, given that not all RTs possess a specialty certification to do this and that hospitals use this specialty certification as the standard for determining full competency in this area of RT care.

Marcy Wyrens, RT, commented that updating the RT statute is critical to the continuance of ECMO in Nebraska, and that expanding the scope of RTs vis-à-vis ECMO is critical for RTs to be able to do their jobs in Nebraska. Ms. Wyrens commented that Iowa, Colorado, and South Dakota have already updated their RT scopes of practice along the same lines as the current Nebraska RT Credentialing Review proposal which shows that the issues under review in this proposal have also been concerns in other states as well.

Jeff Gonzalez, RT, briefly commented that RTs have been providing the expanded functions and services in question in the proposal for thirty-years and could not continue to provide services at all if they were suddenly disallowed to provide them.

Larry Hardesty asked the applicants if they have reached out to other professions and health care organizations to clarify their stance on the issues under review. Ms. Nichols responded that her group has contacted NMA, NHA, NNA, NPA, and the Nebraska Perfusion Society regarding their stance on these issues and found no serious concerns with the RT proposal from any of these organizations.

Dexter Schrodtt with NMA commented that NMA has no serious concerns with the RT proposal but continued by stating that NMA wants to meet with the RT applicant group as soon as possible to discuss some questions about the wording of some parts of the proposal.

Additional Discussion on the Applicant’s Proposal

Dr. O’Hara asked the applicant representatives if RTs might need additional continuing education courses if the proposal were to pass. Heather Nichols, RT, responded for the applicant group by stating that there would be no need for additional continuing education courses, and that RTs are already well prepared for the additions to their scope of practice.

Dr. Flugge asked the applicant representatives whether or not there might be a need to adjust RT continuing education courses to focus on the specific changes defined in the proposal if it were to pass, or, is this not necessary? Marcy Wyrens, RT, responded that the ECMO component of the proposal would require such a special focus, adding that RTs already receive this kind of specifically focused training via hospital requirements. Ms. Wyrens added that the RT training curriculum has already been adjusted to include specific training in ECMO. Heather Nichols, RT, commented that all necessary education and training to provide the additional scope elements are already in place.

Ms. Eells asked the applicant representatives if the proposal would call for new statutory wording pertinent to ECMO training. Heather Nichols, RT, responded by stating that ECMO falls under hospital statutes and rules and regulations that define the training necessary for safe and effective practice. Dr. Flugge then asked what the committee members could do to provide assurance that specific focus on ECMO training continues to be a component of RT education and training if the proposal were to pass. Program staff responded that the committee members may include a specific item in their report of recommendations to address this concern if they wish to do so.

Dr. Warner asked the applicants how long it might be before they have to update their scope of practice again. Heather Nichols, RT, responded by stating that the proposed changes should be all that's needed for at least the next decade, but that beyond that, "who knows?"

Dexter Schrodt, J.D. with the Nebraska Medical Association commented that NMA and applicant representatives recently met via telephone conference call to discuss the proposal. He stated that this discussion clarified that the proposal as written poses no concerns or problems for NMA and that NMA has decided to support the RT proposal.

Bridget Norton with Nebraska Children's Hospital commented that she sees no problems with the education and training that is already in place for RTs vis-à-vis the proposed new scope elements and indicated her support for the proposal.

All sources used to create Part Four of this report can be found on the credentialing review program link at <https://dhhs.ne.gov/Licensure/Pages/Credentialing-Review.aspx>

Part Five: Formulation of Recommendations on the Applicant's Proposal

Final Discussion on the Proposal

Representatives of the Nebraska Medical Association, the Nebraska Hospital Association, and the Nebraska Perfusion Society expressed support for the applicants' proposal.

Action taken on the proposal as a whole was as follows:

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

The following Committee members voted to recommend approval of the RT proposal:

Robert Synhorst
Su Eells
Larry Hardesty
Michael J. O'hara, J.D., Ph.D.
Rebecca Docter, MA, ATC
Ryan Flugge, RP, PharmD, BCPS

The following Committee members voted to recommend against approval of the RT proposal:

There were no nay votes or abstentions. One member of the committee was absent during the roll call vote.

By this roll call vote the members of the Respiratory Therapy Technical Review Committee recommended approval of the Respiratory therapy proposal.