

**REPORT OF RECOMMENDATIONS AND FINDINGS**

By the Occupational Therapy Technical Review Committee

For the Review of the Application for Mandatory Licensure and  
Clarification of Scope of Practice by the Occupational Therapists  
of Nebraska

To the Nebraska State Board of Health, the  
Director of the Department of Health and Human Services Regulation  
and Licensure, and the Legislature

October 3, 2002



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## 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 Health and Human Services Department of Regulation and Licensure. The Director of this agency 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 four 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 agency 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.



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## SUMMARY OF THE APPLICANTS' PROPOSAL

### Occupational Therapy Terms Defined

As described in The Applicants' Proposal, Pages 10 and 11, occupational therapy is defined as follows:

Occupational Therapy is the use of purposeful activity with persons who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disability or the aging process, in order to maximize independent function, prevent further disability and achieve and maintain health and productivity, and encompasses evaluation, treatment, and consultation services that are provided to a person or group of persons.

As described in The Applicants' Proposal, Page 12, Occupational and Licensure Categories are defined as follows:

**Occupational Therapist** means a person licensed to provide the full range of services under this act including providing necessary and appropriate supervision of occupational therapy assistants and occupational therapy aides.

**Occupational Therapy Assistant** means a person licensed to assist in the practice of occupational therapy under this act and who shall work under the supervision of an occupational therapist.

**Occupational Therapy Aide** refers to an unlicensed person who provides supportive services to occupational therapists and occupational therapy assistants.

### Mandatory Licensure

As described in The Applicants' Proposal, Page 15, the applicants seek to mandate that no person shall practice as an occupational therapist or occupational therapy assistant or hold themselves out to be occupational therapists or occupational therapy assistants unless they are licensed by the state of Nebraska. The applicants stated that this proposal exempts the practice, services, or activities of any person who is licensed under other statutes in Nebraska to provide the same or similar services to those described in this proposal.

As described in The Applicants' Proposal, Pages 15 and 16 this proposal would exempt occupational therapists licensed in other states from being licensed in Nebraska if their services are performed for no more than thirty days, and are provided in association with an licensed occupational therapist licensed in Nebraska, as long as the persons in question have had to satisfy licensure requirements in their state that are as stringent as those of Nebraska, or they have passed an entry level certification examination.

### **The Proposed Scope of Practice**

As described in **The Applicants' Proposal, Page 11**, occupational therapy intervention includes:

- 1) remediation or restoration of performance abilities that are limited due to impairment of biological, physiological, psychological, or neurological processes.
- 2) adaptation of task, process or the environment, or the teaching of compensatory techniques, in order to enhance performance.
- 3) disability prevention methods and techniques which facilitate the development or safe application of performance skills.
- 4) health promotion strategies and practices which enhance performance abilities.

As described in **The Applicants' Proposal, Page 11**, a licensed occupational therapist or occupational therapy assistant would be qualified to perform the following activities for which they have received training or established service competency:

- 1) evaluating, developing, improving, sustaining, or restoring skills and activities of daily living, work activities, and play and leisure activities.
- 2) evaluating, developing, remediating, or restoring sensorimotor, cognitive, or psychosocial components of performance.
- 3) designing, fabricating, applying, or training in the use of assistive technology or orthotic devices, and training in the use of prosthetic devices.
- 4) adaptation of environments and processes, the application of ergonomic principles to enhance performance.
- 5) application of physical agent modalities as an adjunct to the process of enhancing performance.
- 6) evaluating and providing intervention in collaboration with the client, family, caregiver, or others.
- 7) educating the client, family, caregiver, or others in carrying out appropriate nonskilled interventions.
- 8) consulting with groups, programs, organizations, or communities to provide population-based services.

As described in **The Applicants' Proposal, Pages 11 and 12**, referral requirements would be:

- 1) Evaluation and rehabilitative treatment shall be based on referral from a licensed physician, dentist, psychologist, chiropractor, ophthalmologist, or podiatrist.
- 2) An occupational therapist or occupational therapy assistant may accept a referral for the purpose of providing services which include consultation, habilitation, screening, prevention, and patient education services.
- 3) Referrals may be for an individual case, or may be for an established treatment program that includes occupational therapy services as a component.
- 4) Referrals shall be in writing; referrals may be generated by a medical professional,

family member, or another professional colleague.

## **SUMMARY OF COMMITTEE CONCLUSIONS AND RECOMMENDATIONS**

During their fourth meeting the committee members took action on each of the four criteria of the credentialing review statute. **All information in this section was generated by information from the fourth meeting of the technical committee held on September 12, 2002.**

**The committee members recommended supporting the proposal on all four of the statutory criteria by taking four roll call votes on four formal motions on each of the four criteria. By virtue of these four votes the committee members recommended in favor of the proposal.** The details of these votes are contained on pages 18, 19, 20, and 21 of this report.

**There was a consensus among the committee members that the occupational therapy professional board needs to develop guidelines pertinent to the education, training, and use of physical modalities in occupational therapy.**

**There was a consensus among the committee members that optometrists should be included on any list of professionals identified as involved in making referrals to, or from, occupational therapists.**



## DISCUSSION ON ISSUES RAISED DURING THE REVIEW

### 1) The need for mandatory credentialing

One committee member asked the applicants to discuss why their licensure act provides only for voluntary licensure rather than mandatory licensure. An applicant group spokesperson responded by informing the committee members that during the debate over their licensure bill in 1984 an amendment was approved for the purpose of ensuring that hospitals not be precluded from setting their own credentialing standards for occupational therapists they employ. This person went on to state that the amended language that was added to the legislation was later reviewed by the Attorney General's office which determined that it had the affect of making the license a voluntary one. **(Minutes of the Second Meeting, July 25, 2002)**

The applicant representative on the committee stated that the current situation is a source of confusion for members of the public which tend to believe that licensure means the same thing vis-à-vis occupational therapy services as it does in any other licensed health care profession, namely, that one has to have a license to provide the services. One committee member commented that a principal purpose of licensure is to provide the public with recourse against incompetent or fraudulent practitioners, and that the current situation by allowing unlicensed practice in effect takes away such recourse. Another committee member commented that the public needs the assurance that those who provide these services are qualified to do so, and that a voluntary licensing process does not provide this assurance. Another committee member commented that mandatory licensure would ensure that all practitioners would have to satisfy some kind of continuing education requirement, and that this is not possible under the current situation. **(Minutes of the Second Meeting, July 25, 2002)**

One committee member questioned the need for mandatory licensure, and expressed the thought that current facility credentialing and oversight of occupational therapists plus the role of third-party payers in controlling reimbursement for their services might be all that is necessary to protect the public from harm. This committee member also expressed doubt as to whether occupational therapy as presently constituted is functionally cohesive enough to comprise a licensable health profession. The applicants responded to these comments by stating that once mandatory licensure is approved, the professional board can assert control over the profession and more clearly define and clarify its boundaries. The applicants also responded by stating that there are private practitioners in occupational therapy whose services are not covered by facility oversight or third-party payers, and some of these persons are currently not credentialed at all. The applicants stated that only their proposal could get this aspect of occupational therapy practice under control. **(Minutes of the Fourth Meeting, September 12, 2002)**

At the public hearing, a spokesperson for the applicant group stated that the applicant

group seeks to make their credential mandatory in order to provide the public with assurance that all occupational therapists in Nebraska meet statutorily defined standards of education and training, and that they demonstrate continuing competency throughout their careers. This testifier went on to present five reasons why mandatory credentialing in the form of licensure and a clearly defined scope of practice is important for the public welfare. The first reason is that occupational therapists work with vulnerable and frail clients who need the assurance of the highest level of consumer protection that law can provide. The second reason is that the practice of occupational therapy requires specialized skills and academic and clinical training, and the public would benefit from the assurance that those who provide the services in question are qualified to do so. The third reason is that mandatory licensure would provide the public with recourse against fraudulent and / or negligent practice. The fourth reason is that a mandatory license would provide a clearer definition of what it is that occupational therapists do for the benefit of third-party payers, thereby providing greater assurance of unrestricted access to occupational therapy services for the public. The fifth reason is that mandatory licensure would legally clarify the domain of the profession and give practitioners clear authority to do what they are educated and trained to do. **(The Transcript of the Public Hearing, Pages 8 and 9)**

2) **The role of occupational therapists in the school system**

One committee member asked the applicants to discuss the role of occupational therapists in the school system. The applicants responded by stating that occupational therapists work with students who have disabilities that impair their ability to learn, and that the goal of their work in these contexts is to help these students be more successful in school. **(Minutes of the Second Meeting, July 25, 2002)**

At the public hearing the applicants presented testimony detailing the kinds of issues and problems that an occupational therapist deals with in schools. One applicant testifier provided the committee with documentation describing the types of problems that are referred to occupational therapists working for school systems. The problem areas include the following:

- 1) Fine motor control / visual coordination
- 2) Postural / behavioral organization related to sensory processing
- 3) Motor planning / bilateral coordination
- 4) Self-help skills
- 5) Pre-vocational / school work activities

**“Occupational Therapy (OT) in School-Based Practice” : The written testimony of Patricia A. Gromak, MA, OTR/L, Submitted August 15, 2002)**

This testifier then described the types of interventions that an occupational therapist

would use to address the some of the types of problems identified the above paragraph, and these include the following examples:

- #1) Interventions pertinent to fine motor control / visual coordination which include but are not limited to the following:

Custom-designing devices to assist a student use a writing utensil;  
Applying a splint to help a student access a keyboard or to grip something;  
Applying a head mouse to allow a student to by-pass manual control when using a computer

- #2) Interventions pertinent to postural / behavioral organization related to sensory processing which include but are not limited to:

Identifying patterns of action that structure the student's alerting system;  
Apply specialized seating technologies to support the upper body;  
Develop positioning strategies for the student's interaction and increased stamina in the use of objects

- #4) Self-help skills which include but are not limited to:

Activities to improve independent self-feeding;  
Designing strategies to prevent choking and aspirating;  
Transition from gastrostomy tube feeding to oral feeding

**“Occupational Therapy (OT) in School-Based Practice” : The written testimony of Patricia A. Gromak, MA, OTR/L, Submitted August 15, 2002**

One committee member asked the applicants about those aspects of their work that involves testing students for possible vision problems, specifically, asking what education and training occupational therapists have in eye testing and the evaluation of such testing. The applicants responded by stating that the testing, evaluation, and intervention strategy pertinent to a student's vision problems, like all aspects of occupational therapy services provided in a school setting, is handled in the context of an “IEP” team composed of parents, teachers, nurses, occupational therapists, and any other professionals whose participation is indicated by the nature of the specific problem in question. These teams operate within the framework of an overall service delivery plan with successful learning as the desired outcome. The applicant representative on the committee added that occupational therapists utilize a holistic approach with vision testing and assessment as only one component of an overall evaluation and treatment program for students who need their services. Another committee member commented that from his observations, it seems that there is at this time insufficient cooperation between occupational therapists and eye care professionals in school settings. **(Minutes of the Second Meeting, July 25)**

One committee member asked the applicants how the "IEP" teams work, specifically, who develops the service delivery plan? An applicant representative responded that the plan is developed and carried out in a collegial manner via a consensus among those persons who comprise a given team rather than in accordance with a medical model.

**(Minutes of the Second Meeting, July 25, 2002)**

At the public hearing a representative of the Nebraska Optometric Association expressed the concern that the practice of occupational therapy as articulated in the applicants' proposal might be crossing over into the practice of optometry. This testifier commented that the proposal does not clarify what occupational therapists would be allowed to do pertinent to such aspects of eye care as visual perceptual testing, dyslexia work-ups, and reading difficulty testing in school contexts. This testifier stated that the proposal does not clarify the extent to which occupational therapists have independent authority to develop and implement treatments for vision disorders of students. This testifier asked whether or not the proposal would allow occupational therapists to determine powers of magnification and prescribe low vision aids, and, commented that if it does, then this would conflict with the scope of practice of optometry. **(The Transcript of the Public Hearing, Pages 73 and 74)**

This testifier stated that the proposal needs to clarify exactly what the role of occupational therapists is in providing eye care to students consistent with their qualifications, and that there is a need for eye care professionals including optometrists to be part of the "IEP teams" that deal with the vision problems of students to ensure that they get access to the kind of eye care services that they need. **(The Transcript of the Public Hearing, Page 75)**

One committee member commented that concerns about the "IEP teams" in the schools are probably outside the charge of the technical review committee, and that the committee needs to focus its efforts on the licensing of, and professional standards of, occupational therapists. The testifier for the optometrists responded that her profession wants to make sure that these standards for occupational therapy do not include optometry. The representative of the occupational therapists on the committee responded by stating that there is nothing in the proposal that indicates that the applicant group is seeking prescriptive authority, or is seeking to engage in the practice of optometry.

Another committee member commented that the proposal makes reference to evaluation methods and devices, and that the proposal makes statements to the affect that occupational therapists are qualified to perform activities for which they have received "training." **(The Applicants' Proposal, Page 11)**

This committee member expressed the concern that the proposal seems to be saying that if a practitioner takes a training course in a given topic area that they can then provide



services in that area even though they have no other background in it than that one training course. **(The Transcript of the Public Hearing, Pages 79, 80, 81, and 82 includes the discussion on this)**

The applicants responded that they have no intention of practicing beyond their scope of practice, and that their board of examiners previously developed a letter that was sent to all occupational therapy licensees which clarified that occupational therapists are able to screen, but are not able to diagnose or to prescribe anything to treat the eye problems or conditions of students. One applicant testifier informed the committee members that they had previously referred students that they had screened for low vision problems to optometrists, but did not have very good results from this. **(The Transcript of the Public Hearing, Pages 89 and 90)**

3) **The education and training of occupational therapy professionals**

One committee member commented that the education and training of occupational therapists needs to be quite extensive in order to be able to safely and effectively provide the kind of broad-based holistic care they provide. The applicants responded that preparation for the national board examination focuses occupational therapy candidates on the skills they need to develop in order to practice safely and effectively. **(Minutes of the Second Meeting, July 25, 2002)**

One committee member asked the applicants what is meant by the expression "advanced training" in their proposal in the context of treatment "modalities." This committee member also asked the applicants what is meant by the expressions "evaluation", "assessment", and "service competency" in the proposal, and asked the applicants what amount of education and training would be needed to safely and effectively perform the functions associated with these expressions. **(Minutes of the Second Meeting, July 25, 2002)**

At the public hearing the applicants responded to these questions by stating that "evaluation" is defined as the entire information gathering process used to make intervention decisions for clients, and that "assessment" refers to specific tools, instruments, tests, or interactions used during the evaluation process. The applicants went on to state that the results of the evaluation process provide a baseline for measuring the consequences of intervention. One applicant group testifier continued to comment on the evaluation process by stating that occupational therapists direct the evaluation process which includes determining need, defining the problem, establishing intervention priorities and the intervention plan, determining further assessment if necessary, and determining which specific assessments can be delegated to occupational therapy assistants. **(The Transcript of the Public Hearing, Pages 10 and 11)**

One applicant testifier in responding to a question by concerned parties informed the

committee members that “service competency” is a process of teaching, training, and evaluation in which an occupational therapist determines whether or not an occupational therapy assistant is performing tasks in a same way that the occupational therapist would perform them, and whether or not the same outcomes are being achieved. **(The Transcript of the Public Hearing, Page 16)**

This applicant group testifier responded to committee questions about “advanced training” by stating that this term refers to the documentation of training above and beyond basic educational programs, and added that therapists must document the modalities in which they have received advanced training. Such training can occur in a commercially provided seminar or program, or in a one-on-one training between another therapist and the trainee, and would continue until the trainer feels comfortable that the trainee has learned what is needed to utilize the modality safely and effectively, and documents that the training has been successfully completed. **(The Transcript of the Public Hearing, Page 12)**

Written testimony submitted by the Nebraska Physical Therapy Association responded to applicant comments pertinent to “advanced training” by stating that NPTA has concerns about the nature and extent of the “advanced training” described by the applicant group. This testimony asked who monitors and verifies that the advanced training has been successfully completed, and how is the public protected from those performing the services without the advanced training? This testimony went on to state that the kind of advanced training being described might be able to address technical aspects of therapeutic modalities, but would not be able to cover such material as physiology, pathology, physics, pharmacology, response-to-treatment indications and contraindications, application methods, and therapeutic dosages. This testimony concluded that modalities should not be a part of occupational therapy scope of practice unless the applicant group can clarify how all graduating practitioners are competently trained to use them. **(Letter to Jerry Vaughan, OD, From The Nebraska Physical Therapy Association, August 22, 2002)**

The applicants responded to the NPTA testimony by stating that in occupational therapy physical agent modalities are not an entry-level skill, and that additional education and training is necessary. The applicants informed the committee members that the occupational therapy professional board has issued an opinion statement that was intended to provide guidance to practitioners in the use of physical agent modalities. The applicants added that mandatory licensure and scope of practice will define the training and education necessary to use these modalities, and that rules and regulations will eventually clarify the process by which advanced training is provided, monitored, and documented. **(The Minutes of the Fourth Meeting, September 12, 2002)**

The applicants continued their response to NPTA testimony by informing the committee members that in occupational therapy practice physical modalities are “adjunctive

methods,” and as such, are used only in conjunction with, or in preparation for, patient involvement in purposeful activity. The applicants further informed the committee members that the exclusive use of modalities outside the context of a functional outcome is not considered the practice of occupational therapy. The applicants went on to state that advanced training to do modalities can occur in the context of continuing education, in-service training, or graduate education. Such training and education does include both theoretical and technical preparation, and includes human anatomy, chemistry, physics, guidelines for the selection of, and application of, treatment modalities, as well as indications and contraindications related to the selection and application of modalities. **(The Minutes of the Fourth Meeting, September 12, 2002)**

At the public hearing one committee member asked the applicants whether or not the advanced training for the use of modalities would be part of the curriculum for the master’s program. The applicants responded that this program will not include a class specifically on physical agent modalities, and that training in the use of modalities will have to come from post-graduate training, continuing education training, and on-site training at the place of employment. **(The Transcript of the Public Hearing, Page 92)**

The applicants commented that the training that occupational therapists receive in modalities provides them with some exposure to them, but not enough to achieve competency in using them. The applicants added that this is why the profession is so committed to providing services within the context of a team of professionals wherein each professional brings their expertise to the team’s effort to address the problems at hand. **(The Transcript of the Public Hearing, Pages 93, 94, and 95)**

At the second meeting, one committee member asked the applicants if they could provide the curriculums of the three occupational therapy education and training programs located in Nebraska. At the public hearing, the applicants provided the committee members with copies of the occupational therapy curriculums of Clarkson College, The College of Saint Mary, and from Creighton University in order to provide the committee members with detailed information on occupational therapy education and training. One committee member asked the applicants whether their statute would clarify the nature and extent of the education and training that practitioners need in order to be qualified to practice safely and effectively, or whether this would be done in rule and regulation. An applicant representative responded that the rules and regulations would clarify the specifics of education and training for practitioners. **(Minutes of the Second Meeting, July 25, 2002)**

4) **The differences in education and training between occupational therapists and occupational therapy assistants**

One committee member asked the applicants to discuss the differences between occupational therapists and occupational therapy assistants. The applicants responded by

stating that these represent different career paths, and that occupational therapy programs are four-year programs while occupational therapy assistant programs are two-year terminal degree programs. The applicants went on to state that those who seek to be occupational therapists are interested in being decision-makers in their field while those who go through the occupational therapy assistant programs are persons satisfied with performing a given set of functions under the supervision of those who render the judgments and make the decisions. The applicants added that occupational therapists are educated in the theory behind the practice of their field whereas occupational therapy assistants typically do not receive this kind of preparation.

Written testimony submitted by the Nebraska Physical Therapy Association commented that the applicants have not clarified what the expression "appropriate training" means in the context of the delineation of occupational therapy and occupational therapy assistant scope of practice included in the applicants' proposed revisions to #14 under section 71-6103, Revised Statutes of Nebraska. This testimony also noted that further clarification is needed pertinent to what education and training would be necessary to safely and effectively use "assistive technology", (and) "orthotic and prosthetic devices." The NPTA testimony also commented that there is also a need for further clarification in the role delineation between occupational therapists and occupational therapy assistants. This testimony also sought clarification of the expression "service competency."  
**(Letter to Jerry Vaughan, OD, From The Nebraska Physical Therapy Association, August 22, 2002)**

The applicants responded to the NPTA testimony by stating that occupational therapy assistants are trained and evaluated in the performance of specific tasks by supervising occupational therapists who oversee their work. The supervising occupational therapist is required to verify that assistants under their supervision have achieved competency in performing the tasks in question. **(Minutes of the Fourth Meeting, September 12, 2002)**

One committee member asked the applicants whether those states which license occupational therapists also license occupational therapy assistants. The applicants responded by informing the committee members that forty-four jurisdictions license occupational therapists and forty-one jurisdictions license occupational therapy assistants. **(Minutes of the Second Meeting, July 25, 2002)**

5) **New minimum requirements for licensure in 2007, and the grandfathering of all current practitioners**

The committee members wanted to know why the applicant group is proposing completion of a masters degree as a minimum requirement for licensure in 2007.

An applicant group representative responded by stating that this is part of the professions

effort to improve the quality of services, and that the completion of a masters degree would improve the assessment and research skills of practitioners. (Minutes of the Second Meeting, July 25, 2002)

One committee member asked the applicants why they intend to grandfather all current practitioners in 2007. The applicant representative on the committee responded by stating that the current educational requirements provide adequate minimum qualifications to provide services safely and effectively. Another applicant representative added that it should not be forgotten that many current practitioners have extensive work experience that makes them highly valued providers, and that we would not want to impose requirements that might in effect eliminate them from practice.

(Minutes of the Second Meeting, July 25, 2002)

6) **Access to services in rural areas**

One committee member asked the applicants whether the field of occupational therapy has grown in Nebraska since its 1984 credentialing statute was passed. The applicants responded by informing the committee members that there were approximately 70 occupational therapists in 1984 whereas now there are nearly 600 occupational therapists. This committee member then commented that from his experience it is difficult for residents of rural communities in Nebraska to get access to occupational therapy services, and wanted to know what might be done to improve access to these services in rural areas. (Minutes of the Second Meeting, July 25, 2002)

The applicants responded that there is often not an adequate client base in rural areas to support occupational therapy services, and that it is difficult for occupational therapists to provide services in rural areas cost-effectively. (Minutes of the Second Meeting, July 25, 2002)

At the public hearing an applicant testifier informed the committee members that Creighton University has an agreement with Chadron State College and Wayne State College that students who begin their college careers there and maintain a certain grade point average are granted admission into the occupational therapy program. This testifier stated that the goal of this policy is to encourage these students to return to their rural communities to practice. This testifier acknowledged that there is no loan forgiveness associated with this policy. This testifier went on to state that the Nebraska Occupational Therapy Association has developed an electronic network which enables practitioners from all over the state to post questions and receive suggestions from their colleagues, and that this has been done in order to keep practitioners "connected" regardless of where they are practicing in our state. (The Transcript of the Public Hearing, Page 14)



## COMMITTEE CONCLUSIONS AND RECOMMENDATIONS

The committee members met on **September 12, 2002** to formulate their recommendations on the proposal. **All information in this section was generated by information from this fourth meeting.**

Before proceeding with the formulation of recommendations, the committee members listened to comments from the applicant group that comprised a response to written testimony from the Nebraska Physical Therapy Association pertinent to their concerns about the ability of occupational therapists to use physical modalities safely and effectively. The applicants responded to NPTA concerns by stating that guidelines would be developed in the rules and regulations pertinent to the use of modalities that would clarify educational and training requirements for them as well as how they are to be used in occupational therapy practice. The applicants also indicated the intention of implementing guidelines pertinent to vision testing and assessment in occupational therapy practice. **(See Pages 13 and 14 of this report for more information on this discussion)**

**There was a consensus among the committee members in attendance at this meeting that there is a need for the occupational therapy professional board to develop guidelines for education, training, and practice pertinent to the use of physical modalities and vision testing modalities by occupational therapists.**

**There was a consensus among the committee members that optometrists should be included on any list of professionals identified as involved in making referrals to, or from, occupational therapists.**

The committee members then discussed each of the four criteria of the credentialing review statute beginning with criterion one. The discussions on the substance of the proposal and the issues raised by the proposal that occurred at this meeting are incorporated under the discussions on each criterion.

### Criterion one states,

**The present scope of practice or limitations on the scope of practice creates a situation of harm or danger to the health, safety, or welfare of the public, and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument.**

The discussion on this criterion focused on whether or not the public needs the proposal. One committee member commented that under the current situation anyone regardless of their qualifications can provide occupational therapy services, and that this represents a source of potential harm to the public health and welfare. Another committee member questioned whether there is a need for this proposal given that third-party payers, health

care facilities and other kinds of employing facilities are in a position to determine whether or not specific occupational therapy practitioners are qualified to provide services. This committee member was also concerned that the proposal could add to the costs of occupational therapy services and thereby limit access to care.

The representative of the applicant group on the committee responded to these concerns by stating that not all practice situations are covered by these kinds of facilities and insurance payers, and that the proposal is needed to prevent harm in private practice situations that are unaffected by the above kinds of scenarios.

Another committee member commented that the scope of occupational therapy is so broad that it is difficult to clearly define it's boundaries in an acceptable way, and that this complicates the creation of a controllable scope of practice for this profession. One committee member responded to this concern by stating that once mandatory licensure is created for the profession, it's professional board can assert control over the profession and more clearly define what services the profession does and does not provide. This committee member noted that under the current situation any uncredentialed practitioner can, in effect, define for themselves the scope of the occupational therapy services they provide.

One committee member then asked whether the current licensure proposal could provide the basis for the kind of control of the profession being discussed. An applicant representative responded that the proposal will create standards of practice for all occupational therapy services and thereby provide the basis for control of the profession. This representative also commented that the proposal would provide recourse to the public pertinent to practitioners who act in such a way as to cause harm to the public.

**There being no further discussion chairperson Vaughan asked for a motion on the first criterion. Committee member Milius moved and committee member Shiffler seconded that the proposal satisfies the first criterion. Voting aye were Shiffler, Milius, Nichols, and Van Boening. Chairperson Vaughan abstained from voting. There were no nay votes. By this vote the committee members recommended that the proposal satisfies the first criterion.**

The committee members then discussed the second criterion.

**Criterion two states,**

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

The discussion on this criterion focused on whether the proposal could lead to de-facto expansion of occupational therapy scope of practice. One committee member expressed



the concern that the current proposal is too open-ended, and as worded, could allow practitioners to practice beyond their education and training. This committee member advised the applicants that it is important for their professional board to develop clear rules and regulations pertinent to the use of modalities for occupational therapy practitioners.

The applicants responded that their board has already taken steps via two opinion statements pertinent to vision care and the use of modalities to provide guidelines to practitioners.

**There being no further discussion chairperson Vaughan asked for a motion on the second criterion. Committee member Nichols moved and committee member Van Boening seconded that the proposal satisfies the second criterion. Voting aye were Shiffler, Milius, Nichols, and Van Boening. Chairperson Vaughan abstained from voting. There were no nay votes. By this vote the committee members recommended that the proposal satisfies the second criterion.**

**The committee members then discussed the third criterion.**

**Criterion three states,**

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

One committee member stated that public confidence in the safety and effectiveness of occupational therapy services would be enhanced by the proposal. Another committee member commented that the benefits of the proposal associated with establishing standards of practice and mandatory licensure outweigh any new concerns that the proposal might create.

**There being no further discussion chairperson Vaughan asked for a motion on the third criterion. Committee member Shiffler moved and committee member Milius seconded that the proposal satisfies the third criterion. Voting aye were Shiffler, Milius, Nichols, and Van Boening. Chairperson Vaughan abstained from voting. There were no nay votes. By this vote the committee members recommended that the proposal satisfies the third criterion.**

**The committee members then discussed the fourth criterion.**

**Criterion four states,**

**The public cannot be effectively protected by other means in a more cost-effective manner.**

An applicant group representative commented that there are no other alternatives to address the problems identified and that the proposal is the most cost-effective way of addressing these problems given that a professional board and support staff are already in place in the Department of Regulation and Licensure. This representative added that nothing in the proposal would add to the costs of regulation under the terms of the proposal above and beyond what already exists.

**There being no further discussion chairperson Vaughan asked for a motion on the fourth criterion. Committee member Milius moved and committee member Nichols seconded that the proposal satisfies the fourth criterion. Voting aye were Shiffler, Milius, Nichols, and Van Boening. Chairperson Vaughan abstained from voting. There were no nay votes. By this vote the committee members recommended that the proposal satisfies the fourth criterion.**

**By these four votes on the criteria the committee members recommended in favor of the applicants' proposal.**

## OVERVIEW OF COMMITTEE PROCEEDINGS

The committee members met for the first time on **June 20, 2002** in Lincoln, in Bennett Martin Public Library. The committee members received an orientation regarding their duties and responsibilities under the Credentialing Review Program.

The committee members held their second meeting on **July 25, 2002** in Lincoln, in the Nebraska State Office Building. The committee members thoroughly discussed the applicants' proposal, and generated questions and issues that they wanted discussed further at the next phase of the review process which is the public hearing.

The committee members met for their third meeting on **August 15, 2002** in Lincoln, Nebraska in the Nebraska State Office Building. This meeting was the public hearing on the proposal during which both proponents and opponents were each given one-hour to present their testimony. Individual testifiers were given ten minutes to present their testimony. There was also a rebuttal period after the formal presentations for testifiers to address comments made by other testifiers during the formal presentation period. A public comment period lasting ten days beyond the date of the public hearing was also provided for during which the committee members could receive additional comments in writing from interested parties.

The committee members met for their fourth meeting on **September 12, 2002** in Lincoln, in the Nebraska State Office Building. The committee members formulated their recommendations on the proposal at this meeting by taking action on each of the four criteria of the credentialing review statute.

The committee members met for their fifth meeting on **October 3, 2002** in Lincoln, in the Nebraska State Office Building. The committee members made corrections to the draft report of recommendations, and then, approved the corrected version of the report as the official document embodying the recommendations of the committee members on the proposal. The committee members then adjourned sine die.

