REPORT OF RECOMMENDATIONS AND FINDINGS

By the Optometry 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

September 9, 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 OPTOMETRY TECHNICAL REVIEW COMMITTEE

Daniel Rosenthal, PE (Chair)

Christine Chasek, LIMHP, LADC

David Deemer, Nursing Home Administrator

Brandon Holt, BSRT (ARRT)

Jessica Roberts, MS Ed, ATC

Sarah Pistillo, Environmental Health Inspector

Marcy Wyrens, RRT

Part Two: Summary of Committee Recommendations

The committee members recommended against approval of the applicants' proposal.

The full account of the recommendation-generating process is provided on pages 19-22 of this report.

Part Three: Summary of the Applicants' Proposal

The proposed change in scope of practice would authorize Doctors of Optometry to perform a procedure called "Selective Laser Trabeculoplasty (SLT) for the treatment of glaucoma. The current Optometric Practice Act contains a categorical prohibition on the use of lasers by Optometrists. The proposal would permit a single, specific laser procedure used for the treatment of glaucoma, an eye disease that Optometrists in Nebraska have been treating since 1998.

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

Part Four: Discussion on issues During Committee Meetings

Initial Applicant Group Comments

Dr. Christopher Wolfe, OD, came forward to provide a power point presentation to the members of the Optometry TRC. Dr. Wolfe began the presentation by providing an overview of Optometric scope of practice in Nebraska. Dr. Wolfe stated that Optometrists possess a vast amount of knowledge about the treatment of eye diseases and conditions including glaucoma, adding that Optometrists in Nebraska have had the statutory authority to treat glaucoma since 1998. He went on to state that the current applicant credentialing review proposal is intended to provide Nebraska's Optometrists with an additional tool to help patients suffering from glaucoma and that this tool would be a procedure called "Selective Laser Trabeculoplasty (SLT)". This laser procedure has become an important treatment regimen for the treatment of glaucoma and has been part of Optometric training and practice for many years in the State of Oklahoma, for example. Dr. Wolfe went on to state that current Nebraska law does not allow Optometrists to perform this procedure, and that in Nebraska only Ophthalmologists provide this procedure. He went on to state that this practice situation has had the effect of limiting access to this procedure especially in remote rural areas of our state where there are few, if any, Ophthalmologists. He added that allowing Optometrists to provide this procedure would greatly enhance access to this care in rural areas because there are far more Optometrists in rural Nebraska than there are Ophthalmologists.

Dr. Wolfe went on to state that Selective Laser Trabeculoplasty (SLT) has become a "front-line" procedure for the treatment of glaucoma and that therefore access to this procedure by all Nebraskans is a matter of importance.

Dr. Wolfe went on to describe how Selective Laser Trabeculoplasty (SLT) removes obstructions in the eye that creat blockages that are responsible for water build-up in the eye which in turn threatens to damage a patient's eyesight. He added that Optometrists already know how to diagnose and treat these kinds of conditions but that current limitations on Optometric scope of practice does not allow them the use of the most up-to-date therapy to treat this condition, namely, "SLT." If a patient in a rural area were to request this procedure the Optometrist would have to refer them to an Ophthalmologist, which would involve a delay in treatment, yet another appointment, yet another payment for services, and, in all likelihood, travel to another part of the state to get access to this procedure. Dr. Wolfe commented that often, in these circumstances, patients in remote rural areas decide to forego this procedure rather than undergo the complications associated with traveling to another town to get access to it.

Committee Questions for Applicant Group Representatives

Marcy Wyrens asked the applicants how many Optometrists are currently prepared to provide this therapy to their patients. Dr. Wolfe responded by stating that between 100 and 120 Optometrists in Nebraska already possess the training to provide this treatment modality. David McBride, speaking on behalf of the applicant group, added that current continuing education for Optometrists in Nebraska already includes training in "SLT."

Christine Chasek asked the applicants to discuss the process by which oversight would be

provided for Optometrists who want to acquire the training to use SLT. Dr. Wolfe responded by stating that to begin with oversight would be provided by physicians but that as the training program progresses eventually highly qualified Optometrists would be allowed to provide such oversight.

Christine Chasek asked the applicants to provide additional information from other states that already have added this modality to Optometry scope of practice regarding how well the expanded scope of practice has worked in these states. The applicants indicated that they would provide such information for the Committee.

Initial Opponent Group Comments

David Ingvoldstad, MD, Ophthalmologist from UNMC, came forward to present comments about the proposal on behalf of the Nebraska Academy of Eye Surgeons. Dr. Ingvoldstad began his remarks by briefly describing the differences between Medical education and training, on the one hand, and Optometric education and training, on the other. Dr. Ingvoldstad's comments focused on the great discrepancy between the two professions in the amount of clinical preparation each receives before being allowed to independently treat patients' eye care diseases and conditions, clarifying that Physicians typically must undergo about thirteen years of proctored education and training before being allowed to see patients without being under another physician's oversight. He pointed out that this is far more than what Optometrists must undergo which he said is only about four years. He continued his remarks by stating that this amount of education and training is not enough to be enable a practitioner to be able to safely and effectively determine whether a patient should undergo a particular surgical procedure or not, for example, and he added that there can be no doubt that what the applicants are asking for is approval to independently perform surgical procedures.

Regarding the matter of access to care Dr. Ingvoldstad stated that access to the care in question in Nebraska is actually very good, adding that there is currently relatively little demand for the SLT procedure anywhere in our state. Dr. Ingvoldstad continued his remarks by stating that the cost of acquiring the necessary equipment to do this procedure is actually quite high and that this cost can only be justified if there is sufficient demand to make these high costs worth it, so to speak.

David Watts, MD, President of the Nebraska Medical Association, came forward to present comments on the applicants' proposal on behalf of NMA. Dr. Watts stated that NMA is opposed to this proposal because it would create needless risks to public health and safety. He added that only physicians possess the necessary education and training to perform surgery safely and effectively.

Questions for the Representatives of Nebraska Ophthalmologists

Chairperson Rosenthal asked Dr. Ingvoldstad if there is a significant safety issue with allowing this procedure to be done in office settings as opposed to restricting them to clinic or surgical centers, for example. Dr. Ingvoldstad responded by stating that either type of practice setting is acceptable as long as the technology therein is up-to-date.

Brandon Holt asked for more data pertinent to access and demand for the services in question.

Christine Chasek asked whether patients are able to drive after the procedure has been completed. Dr. Ingvoldstad responded that they can but that it's best that they not try to do so right away.

Marcy Wyrens asked the applicants if passing the proposal might have the effect of increasing the demand for the services in question and if there is any information to address this question in other states that have already passed proposals similar to this one.

Christine Chasek asked if passing the proposal might result in "scope creep" on the part of Optometrists. Dr. Ingvoldstad commented that he sees a potential for "scope creep" in the current Optometry proposal. Brandon Holt commented that it is vital that the Committee be vigilant regarding the "scope creep" issue and that standards of education and training be carefully defined to minimize the risk of this from happening.

Dr. Wolfe replied that the Board of Optometry has always been mindful of these kinds of concerns and would be prepared to take action against any practitioner who violates the defined scope of practice of the Optometry profession.

Jessica Roberts asked how the necessary amount of additional education, training, and proctoring would be defined. Ms. Roberts continued by asking the applicants how the amount of additional CE would be determined.

Dr. Wolfe replied that these are questions that the profession is in the process of reviewing but that final answers are not yet available.

Dr. Vandervort, OD, with the Board of Optometry, came forward to address concerns expressed about "scope creep" by stating that Optometry has expanded its scope of practice many times over the last four decades and not once has there ever been a report of an Optometrist attempting to violate their scope of practice. He added that the members of the Board of Optometry recognize the need to be vigilant in their oversight of their profession so as to minimize as much as possible the risk of someone attempting to violate current Optometry statutory provisions or Optometry rules and regulations. Dr. Vandervort added that he would soon be submitting a letter from the Board of Optometry that addresses these kinds of concerns.

Responses to Committee Questions by the Applicant Group

Dr. Christopher Wolfe, OD, came forward to present a power point presentation to the members of the Optometry TRC to respond to Committee questions from the previous meeting on April 7, 2022. Dr. Wolfe reminded the Committee members that glaucoma treatment is the focus of the applicant groups' request to be allowed to utilize Selective Laser Trabeculoplasty (SLT). Dr. Wolfe identified nine states that have passed proposals similar to the current Nebraska Optometric proposal. Among these nine states is the State of Kentucky which passed its version of the proposal in 2013, adding that the number of SLT procedures performed by Optometrists in that state has increased every year since the passage of this proposal indicative of an increasing number of Optometric practitioners providing the services in question.

Dr. Wolfe went on to state that about sixty-two percent of Nebraska Optometrists surveyed have indicated that they would be likely to utilize SLT procedures if the applicants' proposal were to pass in Nebraska. Dr. Wolfe added that if the proposal were to pass it would in effect create seventy-two new access to care points for Nebraska eyecare patients vis-à-vis SLT procedures.

Dr. Wolfe continued his remarks by stating that information generated by the survey referenced above shows that some Nebraska patients are declining to undergo SLT procedures because of cost and access concerns under the current practice situation.

Dr. Vandervort, OD, responded to Committee questions about how complaints about practitioners are managed by the Board of Optometry. He stated that in Nebraska the judgements of the Board of Optometry are advisory rather than being the final word vis-à-vis charges brought against a particular practitioner as they are in some other states.

At this juncture in the meeting two Optometrists from Western Nebraska were introduced to the Committee members for the purpose of providing insight into the provision of eye care services in remote rural areas of Nebraska, namely, Dr. Tori Gengenbach practicing in Grant, Nebraska, and Dr. Creston Myers practicing in Alliance, Nebraska. Dr. Gengenbach commented that her experience with patients in the area where she practices is that they do not want to be referred to other eye care providers for follow-up procedures. According to Dr. Gengenbach they want follow-up procedures to be done by her in her office rather than be referred to some other provider, especially if they'd have to travel a long distance to get to them.

Dr. Myers commented that he is not concerned about the cost or complexity of the SLT technology, adding that buying, repairing, and replacing technologies associated with eye care practice is, and always has been, part of the realities of modern eye care practice. Dr. Myers continued by stating that the costs of SLT technology would not be prohibitive and thinks that the addition of SLT technology would be a good fit for the needs of his patients in Western Nebraska.

Additional Committee Questions for Applicant Group Representatives

Dan Rosenthal asked if SLT can be a mobile unit, and if so, how would it be powered in remote rural areas? Dr. Wolfe responded that SLT units can be mobile but typically do not have a generator as part of the package but that backup batteries are part of such mobile units and that this should suffice to maintain them in the field. Dr. Wolfe went on to say that there are maintenance agreements and warranty plans for SLT units.

Marcy Wyrens asked the applicants to discuss how billing for SLT services would occur and if it would or would not be similar to how Medical Doctors bill for these services. Dr. Wolfe responded that this billing process would be done via the same billing procedures as are followed for Medical Doctors.

Christine Chasek asked the applicants to clarify how their education and training vis-à-vis the issues under review compares with the education and training received by Ophthalmologists. Dr. Wolfe responded by stating that Optometrists would need to satisfy Board standards pertinent to SLT that would be put in place if the proposal were to pass regardless of whether the Optometrists in question did or did not receive preparation for SLT services prior to graduation from their Doctoral program, and that such preparation must include proctored oversight of actual SLT procedures during their training program.

Responses to Committee Questions by Opponents of the Proposal

Dr. Shane Havens, MD, a Glaucoma specialist, formerly of the UNMC Residency Program, came forward to present a power point on SLT education, training, and practice from the perspective of Ophthalmologists. Dr. Havens stated that there are essential skills that are needed to provide SLT safely and effectively including being able to judge when a given patient is a candidate for such a procedure and when they are not. Dr. Havens went on to state that a practitioner needs to inform patients who are candidates for SLT that the procedure might have to be repeated to be fully effective, as well as that the procedure might not be successful at all and that other follow-up surgical procedures might be necessary to address the patient's needs. Dr. Havens added that SLT is seldom an emergent procedure and that this is one reason why it's best that Optometrists leave the procedure and its risks to physicians.

Dr. Havens went on to make the following observations from statistical reports about SLT:

- Data does not support the contention that passing this proposal would increase access to SLT services
- Data does not show significant enough demand for SLT to justify efforts to increase the number of providers who would provide such services
- Data shows that most Optometrists are not interested in providing SLT services
- Data from other states that have passed similar proposals does not support the contention that "real time" access to SLT has been improved, thereby

Dr. Havens continued by providing information pertinent to possible harm and increased costs from passing the applicant's proposal:

- The proposal is likely to increase the cost of eyecare

- Procedure failure would create a delay in getting effective care
- The risk of failure for patients with narrow-angle glaucoma is greater than for those with open-angle glaucoma necessitating referral to a physician because Optometrists are not able to provide follow-up surgery if SLT procedures fail
- The education and training of Optometrists does not compare favorably with the education and training of Ophthalmologists, and there doesn't seem to be a "gold standard" for Optometric education and training as there is for Ophthalmological education and training

Additional Questions for Both Applicants and Opponents of the Proposal

Dr. Wolfe, in responding to Dr. Havens assertions about the inability of the proposal to make significant improvements in access to SLT care, stated that as a result of the passage of the proposal in the nine states identified previously that care is now being received in many towns and communities that previously did not have such services, and, that this is evidence of improved access to care.

Dr. Vandervort responded to Dr. Havens assertions about Optometric management of glaucoma by stating that Optometrists diagnose, treat, and, if necessary, refer patients to other health care providers if a given condition would best be handled by another professional, and that, contrary to what Dr. Havens said, this is evidence that Optometrists do know how to manage glaucoma.

Dr. David Ingvoldstad, MD, Ophthalmologist from UNMC, responded to Dr. Vandervort's concerns by stating that the issue in this review is surgery, not overall management of glaucoma, adding that surgical procedures require the best training possible for the sake of public safety and protection.

Dan Rosenthal asked the applicants if there is any evidence of inadequate or unsafe practices by Optometrists from other states that have passed similar Optometric proposals to the one under consideration by this Committee. Dr. Wolfe responded that Colorado's review of Optometric practice found no evidence of problems with Optometric practice or abilities.

Christine Chasek asked the applicants to comment on the differences between their education and training and the education and training of Ophthalmologists. Dr. Wolfe responded by stating that the core of Optometric education and training focuses on the interconnections between eye diseases and conditions, on the one hand, and the physiological systems of the human body, on the other, and that Optometrists learn how to perform procedures pertinent to diagnosis and treatment of eye diseases as they progress through their four-year education and training program, throughout that program. Dr. Wolfe added that the purpose of the 16-hour course described in the proposal is to provide a "refresher" for things already covered in the past during the four-year education and training program.

Dr. Vandervort commented that Optometrists are taught to refer a patient to other health care practitioners if there are any procedures they are not confident in performing vis-à-vis the eye care needs of the patient in question.

Dan Rosenthal asked the applicants to comment on the core problem inherent in the access-to-eyecare debate in this review as they see it. Dr. Vandervort responded by stating that eye care patients in remote rural areas do not want to travel long distances for follow-up care procedures. These patients want such procedures taken care of in their local community by their Optometrist, and if such procedures cannot be done this way, they are likely to be reluctant to agree to have them done at all.

Six Additional Questions from the TRC Members for the Applicant Group

1. How many hours of actual live patient contact is required in the initial Optometry education?

2. In the NMA's opposition letter, they highlight the need for patients to be assessed for risks prior to surgery. They further state that optometrists do not have the training or expertise to be able to evaluate and identify risks before the surgery. Please explain the risks and what exams are needed. Do providers need medical training to understand and evaluate the risks or is the initial training and/or continuing education of optometrists sufficient to assure these risks are minimized?

3. Along this same line, if complications occur during or after the surgery, who can treat those complications? If the basis of the argument to expand the scope of practice because patients are too far away from ophthalmologists to access the surgery, how will they get the care they need if problems happen? How critical is it to have the care immediately versus waiting until the patient can get from the rural area to specialty care?

4. Explain what would be the procedure for an optometrist to do the first surgery? Who would be in the room, what is the first-time experience like? What practice have they had and what is the oversight?

5. Some of the information provided indicates that only 2 of the 23 optometry schools provide training on this procedure. If optometrists are not trained in one of these schools, how do they get the initial training? If it is a continuing education course, describe who teaches it, how is the actual procedure conducted under supervision for the first times it is performed, how is competency ensured?

6. In a slide presented by the opposition, this was stated-- *Giving practitioners surgical privileges legislatively, and THEN allowing them afterward to supposedly learn how to perform a surgery via a weekend course is inappropriate. Ophthalmologists achieve and demonstrate mastery of the surgical skills and disease management BEFORE being allowed to perform surgery independently.* How can we as a review committee be assured that the training of optometrists is sufficient prior to allowing surgery to happen?

Applicant Group Responses to the Six Additional TRC Questions:

1. **How many hours of actual live patient contact is required in the initial Optometry education?**

   Answer: On average, during the four-year professional education beyond their bachelor's degree, optometry students will have approximately 10,000 direct contact hours with patients. It is important to note that optometric education and ophthalmology residency education are different from each other. Both are effective in what they do. Neither program spends the majority of its time training doctors to perform SLT but both programs teach the procedure. There is no objective evidence that either curriculum is superior to the other in training doctors to perform SLT.

2. **In the NMA's opposition letter, they highlight the need for patients to be assessed for risks prior to surgery. They further state that optometrists do not have the training or expertise to be able to evaluate and identify risks before the surgery. Please explain the risks and what exams are needed. Do providers need medical training to understand and evaluate the risks or is the initial training and/or continuing education of optometrists sufficient to assure these risks are minimized?**

   - Answer: The risks and potential complications associated with SLT were described in detail during the initial meeting and can be found on page 28 of the "NOA SLT 407 Presentation" (which has been hyperlinked here and can be found on the 407 website). Optometrists in Nebraska already evaluate and identify risks for glaucoma, for SLT, and for a variety of other surgical procedures before procedures are performed or before patients are treated or referred. All of the skills for evaluating and determining risks—for every aspect of eye health and medical eye care-- are integral to optometric education and daily practice. Keeping current on this knowledge base and skill set dominates optometric continuing education programs and curriculum.

     Opponents' assertions mistakenly stem from their belief that medical diagnosis, treatment, and procedures can only be taught within a medical school curriculum combined with a medical school-based residency. If this were true Dentistry, Podiatry, and Optometry would not exist and could not provide the excellent care that these professions provide on a daily basis across Nebraska and the rest of the country. While opponents may have their own opinion, no evidence has been provided that would show that optometric training for evaluating and identifying risks is insufficient in any of the states that allow SLT. And no evidence exists that Nebraska optometrists lack the training or capability to evaluate patients, utilize appropriate judgment and manage risks regarding any other aspect of patient care.

3. **Along this same line, if complications occur during or after the surgery, who can treat those complications? If the basis of the argument to expand the scope of practice because patients are too far away from ophthalmologists to access the surgery, how will they get the care they need if problems happen? How critical is it to have the care immediately versus waiting until the patient can get from the rural area to specialty care?**

Answer: Of the three most common laser procedures being performed by optometrists in many other states, SLT has the lowest risk of complications. When complications occur, they are usually mild and easily managed by the optometrist. The most common would be mild iritis (inflammation of the iris – the colored part of the eye) and transient elevation of intraocular pressure (IOP) usually due to inflammation of the trabecular meshwork, the tissue that is being treated in SLT. Iritis in post SLT patients is usually very mild and typically responds well to topical steroid eye drops. Increased IOP is treated using additional glaucoma eye drops or possibly by increasing or changing to a stronger steroid. In the unlikely event that the post-op iritis or increase IOP is severe, oral medications may be needed. Optometrists are already authorized to use all topical and oral medications to treat these complications. Optometrists in Nebraska are already managing postoperative SLT complications when they arise.

It is important to note that complications are not unique to SLT and occur in many other eye procedures, most notably cataract surgery. In these instances, the severity is usually much worse than what is encountered post SLT. Therefore, optometrists are encountering, treating, and managing post-surgical complications on a wide variety of patients that present on any given day.

To emphasize the point, optometrists in Nebraska are already managing the complications of SLT and a host of other eye procedures on a daily basis with no need to refer them back to a distant ophthalmologist. Managing SLT complications is not a new skill set or body of knowledge to be learned by an optometrist who is being taught to perform SLTs. Additionally, there is no evidence from any other state that complication rates are higher or more severe when the SLT is performed by an optometrist.

4. **Explain what would be the procedure for an optometrist to do the first surgery? Who would be in the room, what is the first-time experience like? What practice have they had and what is the oversight?**

Answer: Under our proposal, every doctor will have completed training in school and/or in a postgraduate course that involves doing SLT in a laboratory setting and many doctors will have also had an opportunity as students to perform the procedure on live patients. As part of Nebraska's SLT certification process, a doctor proctoring the optometrist would be physically in the room directly observing the optometrist perform the SLT on a patient, answering any questions, and providing guidance throughout the SLT. The proctor will be either an experienced ophthalmologist or optometrist already licensed to perform SLTs. The proctors will be approved by the Nebraska State Board of

Optometry prior to any proctored procedures being performed. A minimum of three proctored patients will be required. However,
the proctor can request additional proctored procedures be performed prior to certification. Likewise, the optometrist being certified could request additional proctored procedures to obtain a higher comfort level. Documentation of the proctorship will be reviewed by the Board of Optometry prior to Board certifying any optometrist to perform SLTs.

It should be noted that except for Wyoming, Nebraska will be the only state requiring proctored SLT procedures for certification prior to being certified to perform them. Additionally, it should be noted that in all other states where SLT was implemented into the scope of practice of optometry without a proctoring requirement, no problems or issues of safety occurred when SLT was performed by the newly certified doctors. We included proctoring in our proposal as an added measure of assurance for the Technical Review Committee and Legislature.

5. **Some of the information provided indicates that only 2 of the 23 optometry schools provide training on this procedure. If optometrists are not trained in one of these schools, how do they get the initial training? If it is a continuing education course, describe who teaches it, how is the actual procedure conducted under supervision for the first times it is performed, how is competency ensured?**

Answer: All accredited schools or colleges of optometry teach and test students on the principles of the SLT laser and technology, the indications for SLT, the complications of SLT and how to treat them as part of the post-graduate didactic and clinical courses they must pass in order to earn their doctorate degree. In addition, the National Board of Examiners in Optometry (NBEO) tests students on SLT and provides a laser skills examination to test students under direct observation in performing the SLT as outlined in Exhibit 6 in our application. If an optometry school is located in a state that does not allow optometrists to perform SLT, external rotation sites are available in states that authorize optometrists to perform SLTs so that students obtain training on live patients.

The Nebraska Board of Optometry will require colleges of optometry to provide attestation and documentation that their graduates meet the requirements for SLT certification described in our proposal before their graduates can be certified to perform SLT. Any doctors unable to prove successful passage of the NBEO laser skills examination, including doctors who were licensed prior to implementation of the laser examination, will be required to take the laser skills education course described in our proposal, pass all examinations associated with that education, and successfully perform the proctored procedures before being considered by the Board for certification in SLT. The nature and contents of that course are outlined in Exhibit 7 in our application.

6. **In a slide presented by the opposition, this was stated-- Giving practitioners surgical privileges legislatively, and THEN allowing them afterward to supposedly learn how to perform a surgery via a weekend course is inappropriate. Ophthalmologists achieve and demonstrate mastery of the surgical skills and disease management BEFORE being allowed to perform surgery independently. How can we as a review committee be assured that the training of optometrists is sufficient prior to allowing surgery to happen?**

   Answer: As previously described in the answers to Questions 4 and 5, no optometrist will be performing SLTs "BEFORE" they are trained and certified. When passed, the legislation will have no practical effect until that training and certification has been achieved under the guidance and direction of the Nebraska Board of Optometry. Legislation does not equate to authorization.

   In addition, The Technical Review Committee only needs to look at the successful implementation of SLTs being performed by certified optometrists in Oklahoma, Kentucky, Louisiana, Alaska, Indiana, Wyoming, Mississippi, Arkansas, Colorado and Virginia. Our proposal is not asking for anything that has not been proven effective and safe, in some cases, for decades. In all of these states there have been no increase in malpractice cases, no significant number of complaints to the Boards of Optometry or Departments of Health and Human Services or Boards of Health. There has been no rise in disciplinary actions related to competency to perform SLT or any other laser procedure.

   Our opponents have used this argument for over 40 years opposing each and every enhancement to the scope of practice of optometry in all 50 states. In all instances their opinions and warnings have proven to be unfounded and unsubstantiated. No state legislature has rescinded or scaled back enhancement to the scope of practice of optometry. This includes every state that has authorized optometrists to perform SLT. The reasons for this are:

   a. Optometric training and education has consistently been proven to be adequate and appropriate for providing enhanced levels of patient care.
   b. Optometrists possess excellent professional judgement. It is fundamental to our education and training to refer any patient that is not within our comfort zone even if we can legally treat that patient within our scope of practice.
   c. Adequate safeguards are in place to discourage optometrists from taking unnecessary risks including:
      1. potential loss of licensure or other disciplinary actions by the Nebraska Board of Optometry.
      2. risk of a malpractice suit
      3. loss of reputation in the community impacting their livelihood.

In summary, the assertions by ophthalmology and the NMA against our proposal have no basis in fact. No objective data or studies have been presented to contradict any of our answers to your questions or anything in our proposal. In keeping with the Legislature's intent in establishing the Credentialing Review Process, we only ask that the Technical Review Committee make its decision about our proposal based on factual evidence and the proven

track record of optometry in multiple other states in implementing the change to our scope of practice that is described in this 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 Presentations and Discussions on the Proposal before the Formulation of TRC Recommendations

Final Comments by Applicant Group Representatives

Dr. Robert Vandervort, OD, came forward to summarize the applicant groups arguments in support of the proposal. In his presentation Dr. Vandervort stated that SLT is now a mainline treatment for glaucoma, adding that Ophthalmological research documents the importance of this treatment and the advances that have been made vis-à-vis the safety and effectiveness of this treatment regimen.

Dr. Vandervort identified the states that currently allow Optometrists to provide this treatment modality, adding that there is no evidence from these states indicating that any harm has occurred to patients associated with the provision of this treatment by Optometrists. Dr. Vandervort commented that patients in remote rural areas of Nebraska are very much underserved by the current restrictions that limit the provision of these services to Ophthalmologists, adding that opponent arguments to the effect that medical clinics in rural Nebraska adequately provide good access to this eye care service are not accurate and that few if any of these clinics provide SLT services.

Final Comments by Representatives of the Opponents of the Optometry Proposal

Dr. Patricia Terp, M.D., came forward to summarize opponent concerns about the Optometry proposal. Dr. Terp stated that there is no access to care issue pertinent to SLT services in Nebraska, adding that few patients choose this service and that there is no evidence that the few who do choose SLT treatment are not getting access to it. Dr. Terp also stated that SLT is not an emergent procedure.

Dr. Shane Havens, M.D., came forward to present additional opponent comments. Dr. Havens stated that there is no evidence that Optometrists are better located vis-à-vis medically underserved populations in our state than are Ophthalmologists. Dr. Havens stated that applicant assertions pertinent to the absence of any evidence of harm to the public from Optometrists who provide SLT services in other states are unsupported by evidence. Dr. Havens went on to say that efforts to find evidence pertinent to any benefits or any costs associated with the SLT services of Optometrists in other states is also in vain and that there seems to be no data pertinent to such matters and that no one seems to be tracking or recording anything pertinent to these Optometry services.

Dr. Terp then stated that Optometrists lack a sufficient amount of clinical hours providing SLT services to live patients to be able to provide these services in a safe and effective manner. Dr. Terp added that insurance companies are unwilling to cover SLT services because the risk of harm from these services is too great.

Final Comments / Questions by TRC Members

Brandon Holt asked the applicants about the vetting process at the licensure level. Dr. Vandervort responded that documentation of a candidates progress occurs at every level of education and training, and this occurs at the schools and the at the Board level as well.

Jessica Roberts asked if there would be such a vetting process vis-à-vis the establishment of SLT certification. Dr. Vandervort responded in the affirmative for the post-graduate processes associated with the proposed certification program for SLT. He added that this would be a four-step process: 1) Laboratory, 2) Didactic, 3) Testing, and 4) Proctoring of hands-on clinical practicums.

There was a question about how certification candidates would be able to access live patients for the hands-on clinical component of the training. Dr. Vandervort responded that clinical rotations are scheduled at schools for each candidate so that each gets the clinical opportunities they need to complete their training programs .

Action taken on the six criteria of the Credentialing Review Program by the Committee members:

<u>Criterion one</u>: The health, safety, and welfare of the public are inadequately addressed by the present scope of practice or limitations on the scope of practice.

Christine Chasek: Voted no
Brandon Holt: Voted no
Jessica Roberts: Voted yes
Sarah Pistillo: Voted no
Marcy Wyrens Voted yes
Daniel Rosenthal: Abstained from voting

By this roll call vote the members of the Optometry Technical Review Committee determined that the Optometrists' proposal does not satisfy the first criterion.

<u>Criterion two</u>: Enactment of the proposed change in scope of practice would benefit the health, safety, or welfare of the public.

Christine Chasek: Voted no
Brandon Holt: Voted yes
Jessica Roberts: Voted yes
Sarah Pistillo: Voted yes
Marcy Wyrens: Voted yes
Daniel Rosenthal: Abstained from voting

By this roll call vote the members of the Optometry Technical Review Committee determined that the Optometrists' proposal does satisfy the second criterion.

<u>Criterion three</u>: The proposed change in scope of practice does not create a significant new danger to the health, safety, or welfare of the public.

Christine Chasek: Voted no
Brandon Holt: Voted yes
Jessica Roberts: Voted yes
Sarah Pistillo: Voted yes
Marcy Wyrens: Voted yes
Daniel Rosenthal: Abstained from voting

By this roll call vote the members of the Optometry Technical Review Committee determined that the Optometrists' proposal does satisfy the third criterion.

<u>Criterion four</u>: The current education and training for the health profession adequately prepares practitioners to perform the new skill or service.

Christine Chasek: Voted no
Brandon Holt: Voted no
Jessica Roberts: Voted yes
Sarah Pistillo: Voted no
Marcy Wyrens Voted no
Daniel Rosenthal: Abstained from voting

By this roll call vote the members of the Optometry Technical Review Committee determined that the Optometrists' proposal does not satisfy the fourth criterion.

<u>Criterion five</u>: There are appropriate post-professional programs and competence assessment measures available to assure that the practitioner is competent to perform the new skill of service in a safe manner.

Christine Chasek: Voted no
Brandon Holt: Voted no
Jessica Roberts: Voted yes
Sarah Pistillo Voted no
Marcy Wyrens: Voted yes
Daniel Rosenthal: Abstained from voting

By this roll call vote the members of the Optometry Technical Review Committee determined that the Optometrists' proposal does not satisfy the fifth criterion.

<u>Criterion six</u>: There are adequate measures to assess whether practitioners are competently performing the new skill or service and to take appropriate action if they are not performing competently.

Christine Chasek: Voted yes
Brandon Holt: Voted no
Jessica Roberts: Voted yes
Sarah Pistillo: Voted no
Marcy Wyrens: Voted yes
Daniel Rosenthal: Abstained from voting

By this roll call vote the members of the Optometry Technical Review Committee determined that the Optometrists' proposal does satisfy the sixth criterion.

Action taken by the Committee members on the proposal as a whole by way of an up/down roll call vote with final comments from each Committee member as to why they voted as they did:

- **Christine Chasek : Voted no**, commenting that the proposal raises public safety concerns and added that surgery is a serious procedure and requires excellent education and training. She went on to say that the education and training standards in the current optometric proposal are not sufficient to provide assurance of safe and effective provision of the surgical services in question. She went on to state that convincing evidence of access to care problems vis-à-vis the surgical services in question was not provided by the applicant group and that the services currently being provided by physicians vis-à-vis the procedures in question are successfully addressing the demand for these services, which does not seem to be considerable at this point in time.

- **Brandon Holt: Voted no**, commenting that the necessary amount of education, training, and continuing education is not sufficient for the provision of safe and effective services.

- **Jessica Roberts: Voted yes**, commenting that there is very limited access to the services of Ophthalmologists in rural Nebraska vis-à-vis SLT services except along the I-80 corridor. She added that the education and training being proposed is adequate for the provision of safe and effective services by Optometrists, adding that the proposed additional certificate and the associated proctoring component would provide assurance of competency.

- **Sarah Pistillo: Voted no**, commenting that it would be very expensive for many Optometrists located in remote rural areas to purchase and maintain the necessary equipment to provide the services in question. Additionally, the proposed education and training is not adequate for safe and effective provision of the services in question, and the proposed certificate would not be enough to create sufficient enhancement for this education and training.

- **Marcy Wyrens: Voted yes**, commenting that she grew up in a small rural community in a neighboring state and consequently is well aware of how difficult and inconvenient it is for those who live in such communities to get access to medical services, adding that the proposal offers an opportunity to address these kinds of concerns in Nebraska. She added that it would be a good idea for the applicant group to “beef- up” the education and training components of their proposal but that, generally, it is adequate to provide safe and effective services.

- **Daniel Rosenthal: Abstained from voting**

By this roll call vote the members of the Optometry Technical Review Committee recommended against approval of the Optometrists’ proposal.