

**DIRECTOR'S REPORT ON THE TWO DENTAL AUXILIARIES PROPOSALS TO LICENSE  
DENTAL ASSISTANTS AND ENHANCE THE SCOPE OF PRACTICE OF DENTAL  
HYGIENISTS**

**From:** Courtney Phillips, CEO and Acting Director of the Division of Public Health, Nebraska  
Department of Health and Human Services

**To:** The Speaker of the Nebraska Legislature  
The Chairperson of the Executive Board of the Legislature  
The Chairperson and Members of the Legislative Health and Human Services  
Committee

**Date:** September 11, 2015

**Introduction**

The Regulation of Health Professions Act (as defined in Neb. Rev. Stat., Section 71-6201, et. seq.) is commonly referred to as the Credentialing Review Program. The Department of Health and Human Services Division of Public Health administers the Act. As the Acting Director of this Division, I am presenting this report under the authority of this Act.

**Description of the Issue under Review**

There were two proposals considered during this review. One was presented by the Nebraska Dental Assistants Association (NDAA) and the Nebraska Dental Association (NDA). The second proposal considered was presented by the Nebraska Dental Hygienists Association (NDHA). The applicant groups are seeking to license Dental Assistants and enhance the scope of practice of Dental Hygienists. The full text of these proposals can be found on the link under Dental Auxiliaries at [http://dhhs.ne.gov/Pages/reg\\_admcr.aspx](http://dhhs.ne.gov/Pages/reg_admcr.aspx) Summaries of these proposals can be found in the reports on these issues by the technical review committee and the Board of Health.

**Summary of Technical Committee and Board of Health Recommendations**

The members of the Dental Auxiliaries Technical Review Committee recommended against approval of the NDHA proposal via formal roll call vote.

The members of the Dental Auxiliaries Technical Review Committee recommended approval of the NDAA/NDA proposal via formal roll call vote.

The members of the full Board of Health voted to approve the advice presented to them by the Board's Credentialing Review Committee which was to recommend approval of the NDA/NDAA proposal.

## **The Director's Recommendations on the Proposal**

I have reviewed the record and the recommendations made by both the technical review committee and the Board of Health on the two dental auxiliaries proposals as well as the actions taken on the credentialing review criteria by these two review bodies pertinent to these proposals. Their reports represent the most practical and prudent approaches to addressing the outstanding issues surrounding dental practice in Nebraska today. Both the technical review committee and the Board of Health were in agreement that the proposal from the Nebraska Dental Association and the Nebraska Dental Assistants Association (NDA/NDAA) provides for substantive additions to the duties and services provided by dental assistants and dental hygienists without jeopardizing public safety. The proposed changes in the NDA/NDAA proposal offer improved access to care and maintain a high quality of care. I am in agreement with the technical review committee and the Board of Health that the Nebraska Dental Hygienists Association (NDHA) proposal would create too many risks for public health and safety if passed due to the inclusion of irreversible procedures pertinent to such things as tooth extraction and dental anesthesia for example. Therefore, I support the recommendations made by the technical review committee and the Board of Health.

# **REPORT OF RECOMMENDATIONS AND FINDINGS**

By the Dental Auxiliaries'  
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

February 25, 2015

## **Table of Contents**

<b>Part One: Preliminary Information.....</b>	<b>Pages 2-3</b>
<b>Part Two: Summary of Committee Recommendations.....</b>	<b>Pages 4</b>
<b>Part Three: Summaries of the Dental Auxiliary Proposals...Pages</b>	<b>5-13</b>
<b>Part Four: Discussion on the Issues.....Pages</b>	<b>14-25</b>
<b>Part Five: Committee Recommendations.....Pages</b>	<b>26-37</b>

## **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.

## The Dental Auxiliaries' Technical Review Committee Members

<b>Wayne Stuberg, Ph.D., P.T. (Chairperson)</b> Representing the Nebraska State Board of Health Munroe Meyer Institute	<b>(Lincoln)</b>
<b>Allison Dering-Anderson, Pharm.D., R.P.</b> University of Nebraska Medical Center Clinical Assistant Professor of Pharmacy	<b>(Omaha)</b>
<b>Michael Millea, L.M.H.P.</b> Retired Educator; Mental Health Practitioner	<b>(Omaha)</b>
<b>Linda Black, R.T.</b> Retired Medical Radiographer	<b>(Hildreth)</b>
<b>Edmund Bruening</b> Self-employed Business Manager	<b>(Lincoln)</b>
<b>Ryan McCreery, PH.D.</b> Director of Audiology Boys Town National Research Hospital	<b>(Omaha)</b>
<b>Stephan Peters, B.A., M.A.</b> Marketing Manager UNMC	<b>(Omaha)</b>

### Meetings Held

Orientation and Initial Discussion:	September 11, 2014
Discussion two:	October 20, 2014
Discussion three:	November 13, 2014
Preliminary Recommendation:	December 4, 2014
Public Hearing:	January 8, 2015
Final Recommendation:	February 12, 2015
Final Approval of the Report:	February 25, 2015

## **Part Two: Summary of Committee Recommendations, including Ancillaries Recommendations, if any**

The members of the Dental Auxiliaries Technical Review Committee recommended against approval of the NDHA proposal via formal roll call vote.

The members of the Dental Auxiliaries Technical Review Committee recommended approval of the NDAA/NDA proposal via formal roll call vote.

The full record of these actions can be found on pages 26 through 37 in this report.

## **Part Three: Summaries of the Dental Auxiliary Proposals**

### **OVERVIEW OF THE NDA/NDAA PROPOSAL**

#### **Proposed changes for dental hygienists:**

Three levels of Dental Hygienists would be defined, the Registered Dental Hygienist, the Expanded Function Restorative Dental Hygienist, and the Public Health Registered Dental Hygienist.

- The duties of the Registered Dental Hygienist would include prescribing mouthrinses and fluoride products, administering local anesthesia and reversal agents, and performing orofacialmyology, all under general supervision.
- The duties of the Expanded Function Restorative Dental Hygienist would include minor denture adjustments, placement and finishing of dental restorations, and the extraction of primary teeth that are ready to exfoliate, all under general supervision.
- The duties of the Public Health Registered Dental Hygienist would include orofacialmyology including periodontal debridement, local anesthetic and reversal agents under the orders of either a dentist or a physician, prescriptions for topical mouthrinses and fluoride, minor denture adjustments and denture reline, and palliative care to include smoothing of rough edges of a tooth, and dental hygiene diagnosis, all under general supervision.

#### **Proposed changes for dental assistants:**

Three levels of Dental Assistants would be defined, the Dental Assistant, the Licensed Dental Assistant, and the Expanded Function Dental Assistant.

- The duties of the Dental Assistant would include monitoring nitrous oxide and placing topical local anesthesia under indirect supervision. These Dental Assistants would be allowed to take dental x-rays and perform coronal polishing under general supervision.
- The Licensed Dental Assistant would be allowed to place pit and fissure dental sealants, fit and cement crowns on primary teeth, and take final impressions for dental prostheses (crowns and bridges, for example) under indirect supervision.

- The Expanded Function Dental Assistant would be allowed to perform all of the duties of a Licensed Dental Assistant, plus place and finish dental restorations under indirect supervision.

Every applicant for licensure as a Dental Assistant would be required to take and pass an examination approved by the Board of Dentistry. There are two routes that a candidate can take to become eligible to take the licensure examination, and they are 1) successful completion and graduation from a training program for dental assistants approved by the Board of Dentistry, and 2) possess a high school diploma or its equivalent and have at least 1500 hours of work experience as a dental assistant. Ms. Cronick went on to state that there are four additional areas of competency available to those licensed dental assistants who satisfy the requirements for special permits in these respective areas of competency. These areas of competency are as follows: 1) fixed prosthodontics, 2) removable prosthodontics, 3) fit and cement crowns as part of pediatric care, and 4) monitor and titrate nitrous oxide.

Expanded functions available to those dental assistants who satisfy additional education and training standards would be eligible to provide certain expanded functions. These include additional functions in fixed prosthodontics and dental restorations with additional permit requirements in each category. Not all functions of dental assisting require licensure, which is why the proposal does not require licensure for all dental assistants or all dental assistant functions.

***NDA/NDAA comments defining the differences between the proposals under review:***

**For Dental Assistants with on-the-job-training only:**

- **NDA / NDAA Proposal:** CPR training is highly recommended, but if they are to monitor nitrous oxide they must receive CPR training and work under indirect supervision. These dental assistants would be allowed to provide the following: 1) placement of topical local anesthesia under indirect supervision, 2) take dental x-rays and perform coronal polishing, in each case after satisfying appropriate certification requirements under general supervision. Current duties as outlined in current state statutes and rules and regulations would continue. This proposal does not provide for the direct supervision of any dental assisting functions or procedures.
- **AGREE BETWEEN THE PROPOSALS: Placement of topical anesthetic under indirect supervision and infection control training consistent with OSHA requirements. They may be trained on-the-job or graduate from a CODA dental assisting program.**
- **NDHA Proposal:** These dental assistants would be required to complete CPR training. A minimum age requirement of nineteen years of age would

be required. These dental assistants would be allowed to provide the following: 1) monitor nitrous oxide administration under direct supervision if they satisfy appropriate certification standards to do this, 2) perform coronal polishing and take dental x-rays after meeting appropriate training standards. Current duties as outlined in current state statutes and rules and regulations would continue. This proposal would not allow these dental assistants to provide any functions or procedures under general supervision.

**For Licensed Dental Assistants with formal training:**

- **NDA / NDAA Proposal:** That these dental assistants would be allowed to provide the following under indirect supervision: 1) Fit and cement crowns on primary (baby) teeth, 2) perform retractions and take impressions for fixed prosthodontic level 1, 3) perform liner and adjustments and impressions for removable prosthodontics (crowns, bridges, etc.), and 4) monitor and titrate nitrous oxide. This proposal does not provide for any functions or procedures to occur under direct supervision. This proposal does not allow dental assistants to provide placement of pit and fissure sealants. Current duties as defined in statute and rule and regulation would continue.
- **AGREEMENT BETWEEN THE PROPOSALS: A minimum age requirement of nineteen years of age would be required for these dental assistants, as would CPR certification, graduation from a CODA dental assisting program or on-the-job training, and then passing the current Dental Assisting National Board certification examination or an equivalent board approved examination. They would also be required to pass a Nebraska jurisprudence examination. They must become licensed under the Department of Health and Human Services and complete continuing education per Uniform Credentialing Act.**
- **NDHA Proposal:** These dental assistants would be required to achieve 3500 hours of chairside experience. Their licensing examination would need to include testing for clinical competency. They would be allowed to provide the following: 1) placement of dental sealants after completion of a training course, 2) fit and cement crowns on primary (baby) teeth, 4) take final impressions/records for dental prosthesis (crowns, bridges, etc. with course) under direct supervision. Current duties as defined in statute and rule and regulation would continue. The NDHA proposal does not provide for any functions or procedures for these dental assistants to occur under indirect or general supervision.

### **For Expanded Function Dental Assistants:**

- **NDA / NDAA Proposal:** These dental assistants would be required to be at least nineteen years of age. They must have 1500 hours as an LDA. They must complete a Board approved course. They must complete and pass the DANB EFDA examination or an equivalent Board approved examination, and then become licensed as an EFDA dental assistant under the Department of Health and Human Services and complete CE consistent with UCA requirements. These dental assistants would be allowed to perform the following under indirect supervision: Adjust and cement fixed prosthodontics 2, perform level 1 and level 2 restorations including temporary fillings, with the supervising dentist checking their work. Current duties as defined under current statutes and rules and regulations would continue.
- **NDHA Proposal:** This proposal does not include an expanded function category under its provisions for dental assistant credentialing.

### **For Dental Hygienists, basic license:**

- **NDA / NDAA Proposal:** This proposal would allow these dental hygienists to administer and titrate nitrous oxide under a dentists orders under indirect supervision. This proposal would allow these dental hygienists to use interim therapeutic technique and write prescriptions for mouth rinses and fluoride products that reduce risk of tooth decay under general supervision. Current duties as defined under current statutes and rules and regulations would continue.
- **AGREEMENT BETWEEN THE PROPOSALS: Allow the administration of nitrous oxide under indirect supervision and allow Interim Therapeutic Technique and writing prescriptions for mouth rinses and fluoride products that help decrease one's risk for tooth decay under general supervision.**
- **NDHA Proposal:** This proposal would allow these dental hygienists to administer nitrous oxide after completion of a training course for this procedure under indirect supervision. These dental hygienists would be allowed to provide the following under general supervision: 1) Local anesthesia and reversal agents, 2) orofacialmyology, 3) dental hygiene diagnosis, 4) placing interim therapeutic restorations after completion of a training course), 5) writing prescriptions for mouth rinses and other topical products and fluoride products after completion of a training course, 6) extracting teeth if there is a 'class 1V' mobility and hopeless prognosis after completion of a training course, and 7) application of an enameloplasty sealant technique after completion of a training course.

Current duties as defined under current statutes and rules and regulations would continue.

**For Expanded Function Dental Hygienists:**

- **NDA/NDAA Proposal:** This proposal would allow these dental hygienists to place and finish the following dental restorations: 1) restorative level 1, including bases, sedative, temporary fillings, restorative class 1, V, and V1; 2) restorative level 2, including restorative class 11, 111, and 1V under indirect supervision. Minor denture adjustments would be allowed under public health supervision. Current duties currently defined in statute and rule and regulation would continue.
- **AGREEMENT BETWEEN THE PROPOSALS:** Both proposals would require the following: 1) Current RDH and EFDH licensure, 2) Proof of liability insurance, 3) Complete a special course, didactic and clinical, within an accredited dental school, or complete an equivalent examination from another state, 4) Pass a Board approved examination, or the DANB national examination currently under development.
- **NDHA Proposal:** Placement and finishing dental restorations and preparation of class 1 and class V restorations would be allowed under general supervision. Current duties currently defined in statute and rule and regulation would continue.

**For Public Health Dental Hygienists:**

- **NDA/NDAA Proposal:** This proposal would allow these dental hygienists to provide Interim therapeutic technique and prescribe topical mouth rinses and fluoride to decrease risk of tooth decay under public health supervision.  
Current duties currently defined in statute and rule and regulation would continue.
- **AGREEMENT BETWEEN THE PROPOSALS:** 1) Have a current RDH licensure and have a public health permit, 2) Have proof of liability insurance, 3) Be authorized by the Department of Health and Human Services and report to this department as required.
- **NDHA Proposal:** proposes that full scope of dental hygiene practice be allowed including the following: 1) interim therapeutic restorations after completion of a training course, 2) dental hygiene diagnosis, 3) writing prescriptions for mouth rinses and other topical products including fluoride products that decrease risk of tooth decay, 4) extraction of primary teeth, without use of anesthetic, 5) extraction of permanent teeth, with or without anesthesia, under orders of either a dentist or a physician after completion of a special training course, based upon class 1V hopeless prognosis, 6)

orofacialmyology after completion of a national certification, and 7) adjustment of removable appliances and soft reline, all of these being under public health supervision.

***Note: The source of the information on pages 5 and 6 of this report about this proposal is “Credentialing Review for Expanding Scopes of Practice for Dental Hygiene and Assisting: A Collaborative Model for Teamwork that Promotes Better Cost-Efficiency and Improved Access for Delivery of Dental Care in Nebraska” submitted by the Nebraska Dental Assistants’ Association (NDAA) and the Nebraska Dental Association (NDA) August 5, 2014***

***The sources of the information on pages 6 through 10 of this report about this proposal are as follows:***

***“407 NDA NDHA Comparison—Hygienists”***

***“407 NDA NDHA Comparison—Dental Assistants”***

***Note: These sources are posted on the Credentialing Review Program link which is [http://dhhs.ne.gov/Pages/reg\\_admcr.aspx](http://dhhs.ne.gov/Pages/reg_admcr.aspx)***

## **OVERVIEW OF THE NDHA PROPOSAL**

### **Proposed changes for dental hygienists:**

The changes requested for Dental Hygienists’ credentialing includes the inclusion of the entire range of services of the members of this profession under general supervision, meaning that the supervising dentist would not be required to be on the premises while they provide their services.

The services of the Public Health Dental Hygienist would include interim therapeutic restorations, extraction of primary teeth and permanent teeth with or without anesthesia under standing orders of a dentist, adjusting removable appliances, applying sealants, and orofacialmyology.

A new Expanded Function Registered Dental Hygienist would be created. This category would place and finish restorations and extract primary teeth under general supervision within a dental practice.

### **Proposed changes for dental assistants:**

Two levels of Dental Assistants would be defined, the Dental Assistant and the Licensed Dental Assistant.

Dental Assistants would be allowed to monitor nitrous oxide under direct supervision of a dentist. Dental Assistants would be allowed to take dental x-rays, perform coronal polishing, and place topical local anesthesia. Licensed Dental Assistants would be allowed to place dental sealants, fit and cement crowns on primary teeth, and take final impressions for dental prosthesis (crowns and bridges, for example) under direct supervision.

***NDHA comments defining the differences between the proposals under review:***

**For Dental Assistants with on-the-job-training only:**

- **Nebraska Dental Hygienists' Association (NDHA)** proposes the establishment of a minimum age requirement, Required CPR, and Direct supervision of a dental assistant who is monitoring nitrous oxide or sedation patients. NDHA also proposes that assistants take course similar to that required for hygienists for monitoring nitrous oxide. This would mean that the dentist would check this patient prior to dismissal to assure that they are recovered.
- **AGREE: NEW: place topical anesthetic under indirect supervision, with infection control training required.**
- **Nebraska Dental Association (NDA)** opposes a minimum age requirement and recommends CPR, if an assistant is to monitor nitrous oxide. NDA agrees that they should be CPR certified per requirements in the statute.

**For Licensed Dental Assistants with formal training:**

- **Nebraska Dental Hygienists' Association** proposes that the hours of experience consist of 3500 hours of chairside experience
- **Under *DIRECT* supervision Nebraska Dental Hygienists' Association** proposes that dental assistants be allowed to place dental sealants, fit and cement crowns on primary teeth, take final impressions/records for dental prosthesis (crowns, bridges, etc. with course)
- **AGREE: 19 yr. old, CPR certified, Current Dental Assisting National Board certification or equivalent board approved exam to include clinical competency and testing. Pass NE jurisprudence exam. Become licensed with Health and Human Services and complete Continuing Education per Uniform Credentialing Act.**
- **Nebraska Dental Association** proposes that the procedure of placing pit and fissure sealants be removed from the entire proposal. That dental assistants are allowed to provide the following under ***INDIRECT supervision***: Fit and cement crowns on primary teeth, take final

impressions/records (including digital) for dental prostheses (crowns, bridges, etc.) and **Administer and adjust nitrous oxide per dentist order. (This is the same that is being requested for licensed dental hygienists and under the same supervision level).**

**For Dental Hygienists, all of whom have formal training:**

- **Nebraska Dental Hygienists' Association** proposes that orofacialmyology be included in dental hygiene scope of practice, as is presently being permitted by the Board of Dentistry but should be expressed in statute.
  - Provide a dental hygiene diagnosis. (needed to determine dental hygiene treatment plan). Hygienists already do this and is part of their accredited educational requirements. Upon completion of a required training course, extract teeth with a class IV mobility and hopeless prognosis.
  - Upon completion of an appropriate training course, provide Enameloplasty sealant technique.
- **Under *GENERAL* supervision:** Administer local anesthesia and reversal agents.
  - Take final impressions (this is allowed for the proposed licensed dental assistant)
- **AGREE: Under *INDIRECT* supervision, administer nitrous oxide (already being taught in dental hygiene programs.)**
  - **Under *General* supervision: Place Interim Therapeutic Restorations (with course), write prescriptions for mouth rinses and other topical products as well as fluoride products that help decrease one's risk for tooth decay (with course)**

**For Public Health Dental Hygienists:**

- **Nebraska Dental Hygienists' Association** proposes the full scope of dental hygiene scope of practice with the additions that are listed above.
  - Adjust removable appliances/soft reline **(with course)** to enable hygienists to help those without a dental home to be able to carry on the activities of daily living.
  - With an appropriate training course, provide Palliative care to include smoothing of a rough edge of a tooth.

**For the Expanded Function Dental Hygienists:**

- **Nebraska Dental Hygienists' Association** supports **Under General Supervision:** current scope of practice of a licensed dental hygienist and public health permit hygienist. **ALSO:** Place and finish dental restorations and preparation of a class I and class V restoration per dentist order. **Must be a licensed registered Dental Hygienist and have (additional coursework required that would include completion of course with didactic and clinical components taught by an accredited dental school or has completed equivalent exam from another state). Pass board approved exam, proof of liability insurance, and licensure for expanded function.** Nebraska Dental Hygienists' Association supports the same clinical competency for dentists, hygienists and assistants that are doing the same procedures. This educational requirement needs to be outlined in statute to protect the public.

**For the Expanded Function Dental Assistant:**

- **Nebraska Dental Association** proposes **Under Indirect supervision:** a dental assistants with 1500 hours as a licensed dental assistant who has completed a Dental Assisting National Board Expanded Function Dental Assistant exam **OR** a board approved exam. Obtain Expanded Function Dental Assistant license from Health and Human Services and complete Continuing Education per Uniform Credentialing Act. Duties: Place and finish dental restorations (fillings, crowns, etc.)

***Note: The source of the information on pages 10 and 11 of this report about this proposal is "Credentialing Review for Expanding Scope of Practice for Dental Hygiene and Establishing a Scope of Practice in Statute for Dental Assisting: Breaking Down Barriers: Oral Health Care Stakeholders Working to Expand Access to Dental Care for Underserved Populations" submitted by the Nebraska Dental Hygienists' Association (NDHA) August 13, 2014***

***The sources of the information on pages 11 through 13 in this report about this proposal are as follows:***

***"Dental Hygienist Comparison Chart"***  
***"Dental Assistant Comparison Chart"***  
***"TR Proposal Introduction"***

***Note: These sources are posted on the Credentialing Review Program link which is [http://dhhs.ne.gov/Pages/reg\\_admcr.aspx](http://dhhs.ne.gov/Pages/reg_admcr.aspx)***

## **Part Four: Discussion on issues raised by the Proposals**

### **How well does the current practice situation address the service needs of Nebraskans? Is there a problem or problems with this current practice situation?**

Representatives of the Nebraska Dental Association (NDA) / Nebraska Dental Assistants Association (NDAA) proposal submitted a document describing the historical background of the issues under review, and then proceeded to comment on the information in this document. A Dental Association representative informed the committee members that in 1985 the Board of Dentistry responded to a survey from the American Dental Association that requested that the Board describe which of the allowable duties of dental assistants and dental hygienists in Nebraska can be delegated by a dentist. The Health and Human Services Agency published a list of such duties on agency letterhead. The dental community considered this list to have the status of law regarding what a dentist could delegate to an auxiliary until it was advised otherwise in 2005. (**"Historical Background—NDA 407 Introductory Comments" by Mr. David O'Doherty**)

The committee members were informed that in April of 2005 the Chief Medical Officer dismissed a petition against a dentist who was accused of violating the provisions of this list of duties on the grounds that the list in question was not defined in the rules and regulations regulating dentistry in Nebraska, that it is not enforceable, and that it is merely an opinion of the Board of Dentistry. Dental Association representatives stated that the impact of this ruling has been far reaching. After this ruling it was clear that the Board of Dentistry had no authority to enforce its judgments regarding what comprises appropriate duties for dental assistants, or to define what comprises appropriate education and training for dental assistants, for example, unless and until the regulation of this profession is provided for in statute and rule and regulation.

A Dental Association representative stated that since this ruling the Nebraska Dental Association has sought to work with the other affected professions in the dental community to update the dental statute to resolve these issues, and that the proposal before the committee from NDA and NDAA represents the latest attempt to accomplish this. The committee members were informed that this proposal is the one that emerged from a dental task force which originally consisted of representatives from all affected dental professions, minus dental extractions and unsupervised dental anesthesia by dental auxiliaries.

A Dental Association representative informed the committee members that approval of the NDA/NDAA proposal would extend the ability of dental practices to provide more accessible services to all Nebraskans, including those at high risk for dental disease. (**The Transcript of the Public Hearing, January 8, 2015, Page 27**)

A representative of the Nebraska Dental Hygienists' Association (NDHA) proposal stated that the number of dentists is declining in Nebraska and that there is a need to make better use of the services of dental auxiliaries to fill the gap in services, especially in remote rural areas of Nebraska. This representative stated that the two proposals differ regarding levels of supervision that are necessary to protect the public. She said that the two proposals also differ regarding specific functions and services that can be provided by dental assistants safely and effectively. (**"TR Proposal Introduction" by Deb Schardt, R.D.H.**)

At the public hearing an NDHA representative stated that Nebraska is facing critical shortages in the area of dental care, as is clarified by the following facts: Twenty counties were without a dentist in 2012, the State of Nebraska has designated forty-four counties as dental shortage areas, only one-third of Nebraska dentists accept Medicaid, most dentists seek to practice in the more urbanized counties of the State, and the number of practicing dentists is steadily declining in our State. This NDHA representative went on to state that the needs of an aging population, the needs of an ever-expanding Medicaid eligible population, and the implications of the Affordable Care Act means that demands for access to dental care are going to be increasing dramatically in our State. There is a great need to find ways of expanding access to dental care services. (**The Transcript of the Public Hearing, January 8, 2015, Page 77**)

### **What are the access to care implications of the two proposals?**

An NDHA spokesperson stated that the number of dentists is declining in Nebraska and that there is a need to make better use of the services of dental auxiliaries to fill the gap in services, especially in remote rural areas of Nebraska. This spokesperson provided a document to the committee members purporting to show that access to dental care services is declining in Nebraska. According to this spokesperson this document shows that there has been a steady decline in the availability of dentists in Nebraska, and that this shortage will soon become acute in the following decade as older dentists retire. They also stated that this documentation shows that there is a trend among younger dentists to leave Nebraska to practice in other states. Policy recommendations in this document include expanding the scope of practice of such dental auxiliaries as dental hygienists to fill the gap in dental care services. (**"Access to Oral Health Care in Nebraska," Center for Health Policy, April, 2013**)

A spokesperson for the NDA/NDAA proposal stated that there is a need to improve the overall efficiency of dental care services in Nebraska which in turn will improve the accessibility of these services. This spokesperson provided a document to the committee members which he claimed shows that the overwhelming majority of Nebraskans have access to practicing dentists that are within a twenty-five mile radius of their place of residence. This spokesperson acknowledged that there are some remote rural areas that lack this extent of access to dental care, but that these are not typical, and that NDHA representatives exaggerate the extent of access to

care problems in our state. **(Map entitled “Dental Offices in Nebraska” provided by NDA/NDAA applicant group representatives)** One NDA spokesperson expressed the hope that the NDA/NDAA proposal would benefit the consumer by improving access to care in remote rural areas of Nebraska.

At the public hearing an NDA representative stated that access to dental care is a multifaceted problem and includes monetary, transportation, language, and cultural aspects. This representative added that the NDA/NDAA proposal can address only a small component of the access issue, and that this pertains to increased efficiencies in the services provided that would result from implementing the proposal. The proposal would result in an increase in the percentage of dentists that take on Medicaid patients by virtue of the fact that the proposal will enable them to delegate duties that are now taking up the time of the dentist per se. **(The Transcript of the Public Hearing, January 8, 2015, Pages 14 and 15)**

### **What are the quality and safety implications of the two proposals:**

A committee member asked whether the proposed standards of training for the new proposed licensure categories would satisfy national accreditation standards. An NDAA spokesperson responded that the proposed standards satisfy national accreditation standards. A committee member asked the applicants whether there are training programs in Nebraska for those seeking to become licensed as dental assistants. An NDAA spokesperson responded by identifying schools in our state that provide the education and training necessary for dental assistants to achieve licensure. A committee member asked whether the training courses would be Board approved. An NDAA spokesperson responded in the affirmative. A committee member asked if there would be opportunities to take at least some of this training on line, and, if so, whether those living in remote rural areas would have access to such training opportunities. An NDAA spokesperson responded that Southeast Community College has all of the necessary course work on line. This spokesperson added that the applicants are looking for guidance from other states that have passed similar proposals. A committee member asked about the duration of such courses. An NDAA spokesperson responded that such training typically takes two or three days per course, plus whatever amount of time is spent doing the on-line components. **(The Minutes of Meeting One, September 11, 2014)**

A committee member asked the applicants how many states have passed similar proposals. An NDAA spokesperson responded that eighteen states have passed provisions pertinent to restorative functions that are similar to those requested in the current NDA/NDAA proposal. This spokesperson added that some other states have passed provisions pertinent to nitrous oxide and the creation of impressions that are similar to those requested in the proposal.

A committee member asked the applicants how consumers would be able to identify and understand what skill sets a given dental auxiliary would possess under the terms of the proposal. This committee member went on to ask how the public could be educated to know what practitioners would be qualified to provide a given

function or service. An NDA spokesperson responded that it would be the responsibility of the dentist to clarify which practitioners would be able to provide a given function or service. The committee member commented that his experience is that dentists get defensive when a patient asks questions about the qualifications of their staff. An NDAA spokesperson commented that a dental patient could go on line and do a licensure 'look up' to find out what a given provider is qualified to do. The committee member responded that it is unlikely that the typical dental patient is going to do that. **(The Minutes of Meeting One, September 11, 2014)**

A committee member asked the applicants who can sit for the 'DANB' examination. An NDAA spokesperson responded that those dental assistants who have completed 3500 clinical hours including 1500 didactic hours would qualify to take the 'DANB' examination. This committee member asked whether the training would be online, and if so, would rural dental assistants be able to access it? An NDAA spokesperson commented that dental assistants would always practice under the supervision of a dentist and that this provides an additional source of public protection. **(The Minutes of Meeting One, September 11, 2014)**

An NDHA spokesperson commented that the removal of the dental sealant provisions for dental hygienists from the original omnibus proposal has been the principal motivating factor for NDHA creating its own proposal. This spokesperson stated that NDHA wants these provisions restored along with more stringent oversight requirements for dental assistants who would be providing these kinds of services. This spokesperson went on to state that the provisions on dental sealants in the current NDA / NDAA proposal does not provide adequate oversight to ensure protection for the public. **(The Minutes of Meeting One, September 11, 2014)**

A committee member asked NDHA spokespersons to comment on the idea of dental hygiene diagnosis in the NDHA proposal. An NDHA spokesperson commented that the term 'diagnosis' is narrowly defined in the proposal and focused exclusively on what dental hygienists do as opposed to a medical diagnosis, for example. **(The Minutes of Meeting One, September 11, 2014)**

A committee member asked NDHA spokespersons if there are any other concerns that motivated NDHA to submit their own proposal. An NDHA spokesperson responded that the NDA / NDAA proposal would allow 'OJT' trained dental assistants with 'CPR' training to monitor nitrous oxide administration without any formal education and training. NDHA does not consider this to constitute adequate protection for the public. **(The Minutes of Meeting One, September 11, 2014)**

Comment was made by program staff that provisions in these proposals that require membership in, or certification by, a private certifying body as prerequisites for licensure are contrary to long-standing public policy in Nebraska vis-à-vis state credentialing which holds that such provisions would force the State to endorse the standards of organizations over which the State has no control. **(The Minutes of Meeting One, September 11, 2014)**

An NDHA spokesperson commented on the safety of the NDHA proposal by stating that dental hygienists are prepared to deliver quality care directly to patients in schools and nursing homes, and that the public health setting offers medical oversight from medical directors of each facility. This spokesperson went on to state that multiple studies have demonstrated the safety and effectiveness of dental hygiene practice, and that studies have shown that mid-level-type care by dental hygienists provides equivalent standards of care with that of dentists for small scope procedures for which they are intensively trained to perform. This spokesperson added that the dental hygienist would always be under the supervision of a dentist or a medical director for the delivery of their services. **(The Transcript of the Public Hearing, January 8, 2015, Pages 80-82)**

An NDAA spokesperson commented on the safety of their services as defined in the NDA/NDAA proposal by stating that patient safety was always a main concern when this proposal was being created, and that care was taken to ensure that all practice components included only reversible procedures provided under clearly defined and appropriate levels of supervision under a dentist. Pertinent to expanded functions care was taken to ensure that dental assistants become competent and comfortable in a given set of procedures before they are allowed to move on to more complex ones. Also, the proposal would ensure that the 'OJT' trained dental assistants are allowed only the simplest functions, whereas only the licensed dental assistants would be allowed to perform more complex functions. **(The Transcript of the Public Hearing, January 8, 2015, Pages 17, 20-22)**

### **Comments and information about specific practice issues discussed during the review**

#### ***Nitrous oxide monitoring by dental assistants***

A committee member commented that there is a discrepancy between the two proposals regarding oversight of the monitoring nitrous oxide administration by dental assistants in that the NDHA proposal would require direct supervision, whereas the NDA/NDAA proposal would require indirect supervision. A committee member asked for clarification regarding the difference between these two levels of supervision. An NDA spokesperson responded that, typically, direct supervision refers to the supervisor being 'on-site' and 'in-the-room', whereas indirect supervision refers to the supervisor being 'on-site', but not necessarily 'in-the-room', per se. This spokesperson clarified that the current Nebraska dental statute does not include a supervisory category called 'direct supervision'. This spokesperson also clarified that under indirect supervision the supervising dentist checks the quality of the work done by the supervisee to ensure that quality work has been done. A committee member asked whether this 'final check' really adds anything to the process given that it occurs after the procedures in question are already completed.

A committee member asked dental association spokespersons to comment on the pervasiveness of nitrous oxide monitoring by dental assistants. An NDA spokesperson responded that nitrous oxide monitoring by dental assistants is very pervasive in the dental community. This spokesperson went on to say that those dental assistants who are involved in monitoring nitrous oxide administration only monitor the level of alertness of the patient, not the operation of the technology associated with this procedure. This spokesperson commented that only the dentist can determine dosages or operate the technology that delivers the nitrous oxide to the patient, adding that all dental assistants take a seminar that instructs them in performing these tasks. This spokesperson went on to state that available technology used in nitrous oxide administration can be set to effectively prevent assistive personnel from altering the dosage of nitrous oxide established by the supervising dentist which has the effect of rendering the administration of nitrous oxide virtually harmless. This spokesperson added that there is no need for additional training for dental assistants pertinent to their role in nitrous oxide administration such as is being proposed in the NDHA proposal.

**Note: The source of the information in this sub-section derives from the Minutes of Meeting Two, October 20, 2014.**

### ***Education and training of 'OJT' dental assistants and LDAs***

A committee member asked for a description of the education and training being proposed for dental assistants, in particular, the skills that would be taught pertinent to nitrous oxide administration and monitoring, for example. An NDAA spokesperson responded that the proposed education and training would focus on teaching about determining proper dosages of nitrous oxide for each patient as well as proper procedures and protocols for administering and monitoring of this anesthetic. This spokesperson went on to say that dental assistants also receive training about the equipment associated with nitrous oxide administration. This spokesperson commented to clarify that the NDA/NDAA proposal is not proposing additional training in this regard, rather, it is the NDHA proposal that is proposing additional training.

A committee member asked for clarification on the differences between the unlicensed category of dental assistants and the licensure category of dental assistants. An NDAA representative commented that the unlicensed category would be dental aides and would not be involved in clinical procedures. The committee member then asked how it would be possible to define a scope of functions in law for a sub-group of a profession that would not be licensed and who learn their duties entirely via 'OJT'.

This committee member asked NDA representatives why they removed all dental sealant procedures from their proposal. An NDA representative responded that this issue was removed from their proposal because it is too contentious. An NDHA

representative responded that there is a need to expand and define dental sealant procedures for all dental auxiliaries in statute, as well as clarify the education and training necessary to do these procedures. This representative added that there is also a need to clarify the supervisory aspect of this issue in statute, and went on to state that NDHA believes that if dental assistants are to do these procedures, they should do them under direct supervision. An NDA representative responded that indirect supervision would suffice for oversight of procedures done by dental assistants. A committee member commented that the dental board would be able to act to resolve these matters. Another committee member asked whether or not the board would have the authority to act in this matter in the absence of guidance from statute. An NDA representative commented that the NDA/NDAA proposal would give the dental board the authority to define the duties and education and training of dental assistants as regards such matters. Another committee member expressed concern about the legality of such a proposal element. An NDHA representative informed the committee members that NDHA has been advised that in Nebraska no credentialing board can define the duties or education and training of a profession outside of the statutory authority of the act that created the credential in the first place.

**Note: The source of the information in this sub-section derives from the Minutes of Meeting Two, October 20, 2014.**

### ***Sealant procedures***

A committee member asked representatives of the applicant groups to comment on the dental sealant issue pertinent to education and training of dental assistants, and pertinent to risks versus benefits of these procedures for the public. An NDAA spokesperson commented that dental assistants are taught sealant procedures at a pre-clinical level on manikins rather than real patients. An NDA spokesperson responded that, typically, the application of dental sealants is not a dangerous procedure, adding that the risk-to-benefit ratio is very much on the side of benefit. This spokesperson went on to say that sealant procedures are reversible and can be redone or modified. This spokesperson clarified that her group does not believe that there is a need for additional education and training for dental assistants pertinent to this aspect of dental care, and this is why the NDA/NDAA proposal does not include provisions pertinent it.

An NDHA spokesperson commented that NDHA is concerned about maintaining the quality of these services and that harm to the public can result from low quality work in administering sealants. She added that significant pain can occur as a result of bad work in applying sealants, and that there needs to be assurance that any dental assistants who perform these procedures are as well trained to do them as are dental hygienists.

An NDHA representative commented on enamel plastic sealants in response to a question about this procedure by stating that this procedure involves the use of a

slow speed hand device to widen and smooth out a surface on a tooth to make it easier to apply a sealant.

**Note: The source of the information in this sub-section derives from the Minutes of Meeting Two, October 20, 2014.**

### ***Tooth extraction***

A committee member commented that NDHA wants this to become a component of their scope of practice, but that the NDA/NDAA proposal does not include this component of dental practice. This committee member asked the representatives of each applicant group to clarify their stance on this issue. An NDHA spokesperson commented that dental hygienists receive the same training in this component of dental care as do dental students, and that there is no reason why dental hygienists should not be allowed to provide this service. This spokesperson went on to state that dental hygienists are able to perform such procedures under general supervision. An NDA spokesperson responded to these comments by questioning whether dental hygienists can manage complications or emergencies that might occur as a result of tooth extraction. This spokesperson went on to state that dental hygienists are not trained to perform a tooth irreversibility diagnosis. This spokesperson went on to state that dental hygienists are not trained to perform or evaluate a patient's medical history. The NDHA spokesperson responded that she has provided this service under general supervision in Kansas, with positive results. This spokesperson added that there is no reason why Nebraska dental hygienists should not be allowed to provide this service. The committee members were informed that Kansas is the only state that allows dental hygienists to extract teeth.

**Note: The source of the information in this sub-section derives from the Minutes of Meeting Two, October 20, 2014.**

### ***Administering local anesthesia***

A Committee member asked whether dental hygienists are currently allowed to administer a local anesthetic. An NDHA spokesperson responded that this is already a component of dental hygiene practice in Nebraska, but went on to state that, currently, this can occur only under indirect supervision. This spokesperson stated that NDHA wants to be able to provide these services under general supervision, rather than indirect supervision. Another committee member asked the NDHA spokesperson how and under what circumstances a dental hygienist would apply a reversal agent. The NDHA spokesperson responded that, like the local anesthetic per se, a reversal agent is injected. The committee member then asked who decides when a reversal agent is indicated? The NDHA spokesperson responded that under the current scope of practice the supervising dentist decides that.

Another committee member asked the NDHA spokesperson how dosages of anesthetic are determined. This spokesperson responded that body weight is a major factor in determining dosage of anesthetic, and that dental hygienists are qualified to make these determinations. This spokesperson added that dental hygienists are also able to calculate dosages for any reversal agents that might be necessary. An NDA spokesperson responded to these remarks by stating that reversal agents don't work very well, and that most dentists don't use reversal agents. This spokesperson then asked the NDHA spokesperson what a dental hygienist would do if there was an emergent situation. At this juncture another committee member asked the NDA spokesperson to provide some scenarios regarding what kinds of things can go wrong. The NDA spokesperson stated that 1) an inappropriate dosage can be injected, 2) the injection can be made in the wrong place and hit a vein, 3) the needle can break off in the patient, and 4) the patient can panic if they sense that something is being done incorrectly or inappropriately. These were identified as reasons why anesthesia procedures need to continue under the indirect supervision of a dentist.

A committee member asked whether dental hygienists can manage allergic reactions of dental patients to an anesthetic. An NDA spokesperson responded that here too there is potential for harm to the public from the NDHA proposal.

**Note: The source of the information in this sub-section derives from the Minutes of Meeting Two, October 20, 2014.**

### ***Fitting and cementing crowns and taking final impressions***

There was agreement among the parties that accuracy is critical in performing these procedures. A spokesperson for the NDA / NDAA proposal commented that these are relatively low risk procedures. An NDHA spokesperson commented that most states require direct supervision of dental assistants that perform these procedures.

**Note: The source of the information in this sub-section derives from the Minutes of Meeting Two, October 20, 2014.**

### ***Dental restoration and preparation***

A committee member asked for clarification on the meaning of class one and class five dental restorations. An NDHA representative responded that these terms refer to restorations of teeth and gums, and further clarified that class one refers to the top of the tooth, whereas class five refers to close to the gum line. A committee member asked whether this is something that dental hygienists can do now. This representative responded that dental hygienists can do simple restorations but that more training would be needed for them to do the more complex procedures, and

that the NDHA proposal would create opportunities for this additional training.

A committee member asked for clarification on the meaning of the term 'preparation' in the context of the issues being reviewed. An NDA representative responded that this term refers to the drilling of a tooth to remove decayed matter from the tooth prior to the administration of a sealant. This representative went on to state that this is something only a dentist can do. An NDHA representative responded that some dental hygienists are trained to do this, and added that some dental hygienists are also trained to provide a local anesthetic. The NDA representative responded that the idea of adding these scope elements to dental hygiene scope of practice is a 'deal breaker' for NDA.

An NDHA representative commented that their proposal would allow dental hygienists to finish restorations and crowns under general supervision. An NDAA representative informed the committee members that 'DANB' is developing a board examination for dental assistants pertinent to restorations and crowns.

**Note: The source of the information in this sub-section derives from the Minutes of Meeting Three, November 13, 2014.**

### ***Removal of soft relines; rough edging; palliative care***

An NDHA spokesperson commented that under current law dental hygienists are not allowed to provide this kind of care, even to helpless nursing home residents, for example. This spokesperson was asked whether there would be a need for any additional training for dental hygienists to provide this kind of care. They responded that some additional training in the use of a burr and a slow speed hand device would be needed for dental hygienists to provide this kind of care.

Comment was made by a committee member that so many additional training courses are being proposed by the NDHA proposal that the public is going to be confused as to which procedures a given dental auxiliary can perform. A committee member asked how the Department of Health would be able to maintain up-to-date documentation on which dental auxiliaries are qualified to perform a given procedure or set of procedures. An NDHA representative responded that if the dental hygiene proposal passes all graduates will be required to take the additional training defined in their proposal. A committee member responded by stating that there would still be practitioners who graduated before the new educational requirements are in place, and asked how these practitioners would be brought up to standard if this proposal were to pass. An NDHA representative responded that certification and/or permit packages would be created to address this situation. A committee member commented that creating additional education and training packages for older graduates would only compound public confusion. An NDHA representative responded that confusion can be avoided if professionals clarify to consumers what they can or cannot do, and if consumers ask good questions.

A committee member asked how employers would be able to determine whether they should hire a level one, two, or three dental auxiliary, for example. An NDA representative responded that the multiple levels of credentialing in the NDA/NDAA proposal provides the dentist greater flexibility in providing efficient services to their patients. This representative commented that the authority to apply sealants needs to be expanded for all dental auxiliaries, adding that the risk is low and the potential benefits are high.

Another committee member asked NDHA representatives to comment further on the issue of sealants. An NDHA representative said that they too want more dental sealant work to be done by dental auxiliaries, but that there is a need for additional education and training for them before this can be accomplished, safely and effectively.

**Note: The source of the information in this sub-section derives from the Minutes of Meeting Three, November 13, 2014.**

**Provisions in the NDHA proposal identified by NDA/NDAA representatives as being unacceptable include the following:**

- Proposing the creation of a new category (Level 'four') of tooth extraction for dental hygienists, unacceptable to NDA because this is an irreversible procedure.
- Absence of provisions in the NDHA proposal that define an appropriate career ladder for dental assistants, including the removal of the expanded function category for dental assistants in the NDHA proposal.
- Creating advanced dental anesthesia provisions by dental hygienists, including administering local anesthetic via injection and reversal agents unsupported by adequate supervision requirements. These also have potential for irreversible consequences.
- Provisions pertinent to the training and supervision of dental anesthesia (nitrous oxide) by dental assistants that are too restrictive for NDA.
- Proposing to create a level of supervision for dental assistants ('direct' supervision, i.e.) that does not exist in the current dental statute, proposed by NDHA for monitoring nitrous oxide, fitting and cementing crowns on primary teeth, or taking final impressions by dental assistants.
- Proposing advanced dental sealant procedures by dental hygienists unsupported by adequate training or supervision requirements.

**Provisions in the NDA/NDAA proposal identified by NDHA representatives as being unacceptable include the following:**

- Proposing creation of advanced restorative procedures (level 2) for crowns, e.g., for dental assistants under indirect supervision by the NDAA/NDA applicant group; the NDHA proposal instead calling for direct supervision of dental assistants performing this function.
- Removal of all dental sealant provisions from the NDAA/NDA proposal, even for expanded function dental hygienists, for example.
- Removal of all tooth extraction procedures from the NDAA/NDA proposal, even for expanded function dental hygienists, due to concerns about irreversibility.
- Proposing creation of a separate, distinct expanded function category for dental assistants without adequate oversight or sufficient training.
- The absence of provisions for dental hygienists to provide local anesthesia under general supervision in the NDAA/NDA proposal.

**Note:** The information on the ‘provisions’, above, comes from discussions held during the September 11, 2014 meeting of the technical review committee.

***Note:*** All sources cited under this heading have been posted on the Credentialing Review Program link which is [http://dhhs.ne.gov/Pages/reg\\_admcr.aspx](http://dhhs.ne.gov/Pages/reg_admcr.aspx)

## **Part Five: Committee Recommendations**

### **Committee Actions Taken on Statutory Criteria for Both Proposals:**

#### ***Actions taken on the NDHA proposal:***

##### ***The criteria for initial credentialing: (To be applied to proposal elements in the above proposal that pertain to creating licensure for dental assistants)***

The committee members briefly reviewed the criteria preparatory to formulating their recommendations. Dr. Stuberg commented that he would abstain from voting unless his vote would be necessary to break a tie.

**Criterion one:** Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public.

Action taken: Voting against the proposal on criterion one were Dering-Anderson, McCreery, Millea, Black, and Peters. There were no votes in favor of the proposal on criterion one.

##### Comments from committee members:

- Ms. Black stated that there no evidence was presented that there is a safety issue in the current situation. She added that the proposed licensure of some dental assistants but not all dental assistants would confuse the public.
- Dr. Dering-Anderson stated that no evidence was presented to document a safety issue in the current situation. She added that there is some confusion at the Board level regarding what can or cannot be delegated.
- Dr. McCreery stated that he too saw no evidence of a safety issue in the current situation.
- Dr. Millea stated that the current situation is adequate as far as safety is concerned.
- Mr. Peters stated that there is great disparity between the two contending parties, and that this needs to be resolved.

**Criterion two:** Regulation of the profession does not impose significant new economic hardship on the public, significantly diminish the supply of qualified practitioners, or otherwise create barriers to service that are not consistent with the public welfare and interest.

Action taken: Voting in favor of the proposal on criterion two were Black and Millea. Voting against the proposal on criterion two were Dering-Anderson, McCreery, and Peters.

Comments from committee members:

- Ms. Black stated that there is no reason to believe that this proposal would diminish the supply of dental care providers.
- Dr. Dering-Anderson stated that this proposal would overregulate dental assistants and could result in a diminishment in the supply of dental assistants.
- Dr. McCreery stated that this proposal would create hardships for dental assistants and that some dental assistants might drop out of the profession resulting in reduced access to services.
- Dr. Millea stated that he could see no significant harm from this proposal.
- Mr. Peters stated that this proposal has potential to limit the supply of dental assistants because of its demand for increased education and training and tighter supervision of dental assistants.

**Criterion three:** The public needs assurance from the state of initial and continuing professional ability.

Action taken: Voting in favor of the proposal on criterion three were Black and Dering-Anderson. Voting against the proposal on criterion three were Millea, McCreery, and Peters.

Comments from committee members:

- Ms. Black stated that increased education, training, and testing is a good thing and can only increase assurance of improved competency of dental assistants.
- Dr. Dering-Anderson stated that the public deserves to know that those who do dental assisting are competent, and the proposal does offer a means of ensuring such competency.
- Dr. McCreery expressed agreement that the public needs assurance of competent practice by dental assistants, but added that this assurance should come from the supervising dentist who is ultimately responsible for ensuring the quality of all dental work done in a dental office.
- Dr. Millea stated that the current 'OJT' method of training dental assistants has worked well and should be allowed in order to ensure that access to care does not decline in remote rural areas.
- Mr. Peters stated that neither proposal holds up very well as regard ensuring the competency of all dental assistants, and expressed concern about the fact that neither proposal calls for the licensure of all dental assistants.

**Criterion four:** The public cannot be protected by a more effective alternative.

Action taken: Voting against the proposal on criterion four were Black, Dering-Anderson, Millea, McCreery, and Peters. There were no votes in favor of the proposal on criterion four.

Comments from committee members:

- Ms. Black stated that this proposal seeks to make changes in the supervision of dental assistants that are unnecessary. She added that this proposal seeks to create a level of supervision that does not currently exist, and that the rationale for such an idea was never made clear by this applicant group.
- Dr. Dering-Anderson stated that she could see no rationale for the proposed tightening of the supervision of dental assistants in this proposal, adding that the proposed creation of an additional level of supervision for dental assistants seems unnecessary and arbitrary.
- Dr. McCreery expressed agreement with Ms. Black and Dr. Dering-Anderson
- Dr. Millea stated that the proposed tightening of supervision of dental assistants would not necessarily result in improved quality of services.
- Mr. Peters stated that there are alternatives to this proposal that better meet the needs of Nebraskans.

**The criteria for proposed changes in scope of practice: (To be applied to proposal elements in the NDHA proposal that seek to expand the scope of practice of Dental Hygienists)**

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

Action taken: Voting in favor of the proposal on criterion one were Dering-Anderson, McCreery, and Peters. Voting against the proposal on criterion one were Black and Millea.

Comments from committee members:

- Ms. Black stated that the proposal is too restrictive as regards dental assistant supervision which could make access to care problems worse than they already are.
- Dr. Dering-Anderson stated that access to care is a problem.
- Dr. McCreery stated that access to care is a problem.
- Dr. Millea stated that the current situation is safe for the public, and that the proposal might inadvertently make things worse despite its good intentions.
- Mr. Peters stated that there are critical pieces that neither proposal currently has that need to be added.

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

Action taken: Voting in favor of the proposal on criterion two was Dering-Anderson. Voting against the proposal on criterion two were Black, Millea, McCreery, and Peters.

Comments from committee members:

- Ms. Black stated that this proposal contains too many irreversible procedures. She added that this proposal has created new confusion as regards supervision of dental hygiene work, and that supervision of the administration of local anesthesia by dental hygienists is too minimal in this proposal.
- Dr. Dering-Anderson stated that the expanded functions would help to address access to care problems in our state.
- Dr. McCreery stated that no evidence was presented that shows a connection between expanding the scope of practice of dental hygienists, on the one hand, and improved access to care in remote rural areas, on the other.
- Dr. Millea expressed concern that the proposal might have a negative impact on access to dental care due to its restrictiveness vis-à-vis other dental providers. He added that the proposal might also increase potential for harm due to it granting too much autonomy to dental hygienists vis-à-vis such things as administering local anesthesia, for example.
- Mr. Peters stated that this proposal grants too much autonomy to dental hygienists who might not be prepared to perform some of the advanced procedures defined for them in this proposal.

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

Action taken: Voting against the proposal on criterion three were Black, Dering-Anderson, Millea, McCreery, and Peters. There were no votes in favor of the proposal on criterion three.

Comments from committee members:

- Ms. Black expressed concerns about there being too many irreversible procedures in this proposal.
- Dr. Dering-Anderson stated that she sees potential for harm stemming from the irreversible procedures defined for dental hygienists in this proposal.
- Dr. McCreery also expressed concerns about there being too many irreversible procedures in this proposal.
- Dr. Millea also expressed concern about there being too many irreversible procedures defined for dental hygienists in this proposal.

- Mr. Peters stated that the proposal would create too much additional risk to public safety vis-à-vis irreversible procedures and such poorly defined ideas as “dental hygiene diagnosis” which is not clarified.

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

Action taken: Voting against the proposal on criterion four were Black, Dering-Anderson, Millea, McCreery, and Peters. There were no votes in favor of the proposal on criterion four.

Comments from committee members:

- Ms. Black stated that this proposal does not document that dental hygienists possess the training necessary to perform the irreversible procedures defined in their proposal.
- Dr. Dering-Anderson stated that this applicant group raises questions about the state of its knowledge and intent when it misuses supervisory terminology and proposes to invent supervisory levels and procedures that no other dental profession has endorsed.
- Dr. McCreery stated that little information was provided in this proposal about the additional education and training for dental hygienists to perform advanced procedures such as administering local anesthesia, for example.
- Dr. Millea expressed concern about the references to “dental hygiene diagnosis,” commenting that this is not clearly defined, nor is there any documentation as to where or how well such a procedure is learned.
- Mr. Peters expressed concern about how good the proposed additional training for dental hygienists to perform advanced procedures would be.

**Criterion five:** 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.

Action taken: Voting in favor of the proposal on criterion five was Millea. Voting against the proposal on criterion five were Black, McCreery, Dering-Anderson, and Peters.

Comments from committee members:

- Dr. McCreery stated that at least some of the additional course work identified by the applicant group was designed for dentists not dental hygienists.
- Ms. Black expressed agreement with Dr. McCreery.
- Dr. Dering-Anderson expressed agreement with Dr. McCreery.

- Mr. Peters stated that he cannot see a clear connection between the proposed new scope elements being proposed for dental hygienists, on the one hand, and the education and training being proposed, on the other.
- Dr. Millea stated that he assumed the pertinent additional education and training for advanced procedures was already in place.

**Criterion six:** 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.

Action taken: Voting in favor of the proposal on criterion six were Dering-Anderson and Peters. Voting against the proposal on criterion six were Black, Millea, and McCreery.

Comments from committee members:

- Ms. Black expressed concern that the assessment 'piece' has not been defined or clarified vis-à-vis this proposal.
- Dr. Dering-Anderson stated that Nebraska is a mandatory reporting state and that if you 'mess up' you will be reported and action will be taken against your license.
- Mr. Peters stated that the basic, minimum level necessary to define and assess competency are in place.
- Dr. McCreery commented that the dental hygienists are attempting to use existing mechanisms to establish competency for existing practitioners, but it is not clear if these are available for dental hygienists or supported by dentists who administer such programs.
- Dr. Millea commented that it is somewhat ominous that the lowest graduate is still a licensee.

### **Committee Actions Taken on the Proposal as a Whole:**

Action taken: Voting in favor of the proposal were Millea. Voting against the proposal were Black, Dering-Anderson, Peters, and McCreery. By this action the committee members decided to recommend against approval of the NDHA proposal.

Comments from committee members:

- Ms. Black stated that there are too many irreversible procedures in this proposal.
- Dr. Dering-Anderson stated that the irreversible procedures in this proposal make this proposal too risky for the public.
- Dr. McCreery stated that there is a need to increase access to care, but that this proposal is not a safe way to do this.
- Dr. Millea stated that dentists should allow dental hygienists to have more autonomy so they can help address access to care concerns of rural Nebraska.

- Mr. Peters stated that the education and training being proposed does not clearly relate to what this applicant group is proposing.

Comments by the committee chair:

Dr. Stuberg made the following comments to briefly summarize committee concerns about the NDHA proposal:

- Regarding dental hygiene diagnosis: No evidence was presented to show that dental hygienists are trained to diagnose.
- Irreversible procedures such as tooth removal: No evidence was presented to show that dental hygienists are adequately trained to manage these procedures.
- Administering local anesthesia under general supervision: No evidence was presented that shows that dental hygienists can manage this procedure safely and effectively without a dentist being on the premises.
- Safely administering fluorides: Training and supervision not clarified.
- Confusion regarding proposed changes in supervision terminology:
- Restrictive proposed regulatory provisions for dental assistants:

***Actions taken on the NDAA/NDA proposal:***

***The criteria for initial credentialing: (To be applied to proposal elements in the above proposal that pertain to creating licensure for Dental Assistants)***

**Criterion one:** Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public.

Action taken: Voting against the proposal on criterion one were Dering-Anderson, McCreery, Millea, Black, and Peters. There were no votes in favor of the proposal on criterion one.

Comments from committee members:

- Ms. Black stated that there no evidence was presented that there is a safety issue in the current situation. She added that the proposed licensure of some dental assistants but not all dental assistants would confuse the public.
- Dr. Dering-Anderson stated that no evidence was presented to document a safety issue in the current situation. She added that there is some confusion at the Board level regarding what can or cannot be delegated.
- Dr. McCreery stated that he too saw no evidence of a safety issue in the current situation.
- Dr. Millea stated that the current situation is adequate as far as safety is concerned.

- Mr. Peters stated that there is great disparity between the two contending parties, and that this needs to be resolved.

**Criterion two:** Regulation of the profession does not impose significant new economic hardship on the public, significantly diminish the supply of qualified practitioners, or otherwise create barriers to service that are not consistent with the public welfare and interest.

Action taken: Voting in favor of the proposal on criterion two were Black, Dering-Anderson, McCreery, and Millea. Voting against the proposal on criterion two was Peters.

Comments from committee members:

- Ms. Black stated that the information on defining a career path for dental assistants was a positive thing in that it holds promise of improving access to care in remote rural areas.
- Dr. Dering-Anderson stated that this proposal would do a better job of increasing access than would the NDHA proposal.
- Dr. McCreery agreed that this proposal would do a much better job of improving access than would the NDHA proposal.
- Dr. Millea agreed that this proposal holds promise of improving access to care.
- Mr. Peters stated that this proposal was confusing in that it does not actually define how a career path would actually be defined. He added that the proposed multiple tiers of practice for dental assistants are only going to be confuse the public.

**Criterion three:** The public needs assurance from the state of initial and continuing professional ability.

Action taken: Voting in favor of the proposal on criterion three was Dering-Anderson. Voting against the proposal on criterion three were Millea, Black, McCreery, and Peters.

Comments from committee members:

- Ms. Black stated that the proposed education, training, and testing is not based on national standards.
- Dr. Dering-Anderson stated that there is an option here to implement national standards and that this would help the public and dental professionals in the long run.
- Dr. McCreery stated that this proposal is less restrictive than the NDHA proposal, but added that the multiple tiers would only create confusion for the public.
- Mr. Peters stated that the level of confusion is great in this proposal and asked what exactly would the education and training entail? There's no way the public can understand all of this complexity.

**Criterion four:** The public cannot be protected by a more effective alternative.

Action taken: Voting in favor of the proposal on criterion four were Millea, McCreery, and Peters. Voting against the proposal on criterion four were Black and Dering-Anderson.

Comments from committee members:

- Ms. Black stated that this proposal does not define national educational standards that are consistent. The proposal places too much arbitrary authority in the Board of Dentistry.
- Dr. Dering-Anderson stated that this proposal leaves a huge gap in the proposed regulation of dental services by ignoring the whole issue of dental sealants, adding that at some point this issue must be addressed.
- Dr. Millea stated that he likes the way this proposal brings dentists and dental auxiliaries together for the common goal of providing accessible services.
- Dr. McCreery stated that he does not see a better option for addressing dental service issues for Nebraska dental patients.
- Mr. Peters stated that this proposal is the better of the two proposals, although by no means is it perfect.

**The criteria for proposed changes in scope of practice: (To be applied to proposal elements in the above proposal that seek to expand the scope of practice of Dental Hygienists)**

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

Action taken: Voting in favor of the proposal on criterion one were Black, Dering-Anderson, and McCreery. Voting against the proposal on criterion one were Millea and Peters.

Comments from committee members:

- Ms. Black stated that the proposal would do a better job of increasing access to dental care in rural areas of Nebraska.
- Dr. Dering-Anderson stated that this proposal would be able to improved access to care in our state.
- Dr. McCreery stated that something must be done to improve access to care in dental services, and of the two proposals, this one would do the best job.

- Dr. Millea stated that he does not see a health related problem in these discussions.
- Mr. Peters stated that there are so many points of confusion and gaps in education and training that it is difficult to see whether or not it would improve access to care or not.

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

Action taken: Voting in favor of the proposal on criterion two were Black, Dering-Anderson, Millea, McCreery, and Peters. There were no votes against the proposal on this criterion.

Comments from committee members:

- Dr. Dering-Anderson stated that this proposal would do more to improve access to dental care in Nebraska than would the NDHA proposal.
- Dr. McCreery stated that the testimony at the public hearing clarified for him that this proposal would do more to improve access to dental care than would the NDHA proposal.
- Dr. Millea agreed with Dr. McCreery.
- Mr. Peters also agreed with Dr. McCreery.

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

Action taken: Voting in favor of the proposal on criterion three were Black, Dering-Anderson, Millea, McCreery, and Peters. There were no votes against the proposal on criterion three.

Comments from committee members:

- Ms. Black stated that there is nothing to indicate that there would be new harm stemming from this proposal.
- Dr. Dering-Anderson stated that there is less danger here than in the NDHA proposal.
- Dr. McCreery stated that there is no compelling evidence that new harm would be created by this proposal.
- Dr. Millea stated that there are no perfect proposals, but that this one is clearly the better of the two proposals under review.
- Mr. Peters stated that there are dangers and pitfalls with both of these two proposals, and that he is not ready to say that this one is clearly better than the NDHA proposal, all things considered.

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

Action taken: Voting in favor of the proposal on criterion four were Black, Dering-Anderson, Millea, McCreery, and Peters. There were no votes against the proposal on criterion four.

Comments from committee members:

- Ms. Black stated the education and training in this proposal fit a clear and appropriate standard.
- Dr. Dering-Anderson stated that the education and training in this proposal are much better overall than with the NDHA proposal.
- Dr. McCreery stated that no evidence was presented to indicate that the education and training being proposed was in any way inadequate.
- Dr. Millea stated that the education and training seem adequate to him.
- Mr. Peters commented that the education and training seemed sufficiently rigorous to him.

**Criterion five:** 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.

Action taken: Voting in favor of the proposal on criterion five were Millea, Black, McCreery, Dering-Anderson, and Peters. There were no votes against the proposal on this criterion.

Comments from committee members:

- Dr. McCreery stated that the ideas presented in this proposal are well defined and have been implemented successfully in other states.
- Ms. Black expressed agreement with Dr. McCreery.
- Dr. Dering-Anderson expressed agreement with Dr. McCreery.
- Mr. Peters stated that this proposal clarifies that the dentist is in control of dental care and that this goes a long ways to ensuring the public of the safety of dental care services in Nebraska.
- Dr. Millea agreed with Dr. Dering-Anderson's comments.

**Criterion six:** 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.

Action taken: Voting in favor of the proposal on criterion six were Dering-Anderson, Peters, Black, Millea, and McCreery. There were no votes against the proposal on criterion six.

Comments from committee members:

- Ms. Black stated that the utilization of 'DANB' standards in this proposal makes it acceptable to her.
- Dr. Dering-Anderson stated that she trusts the Board of Dentistry to administer this proposal if it were to pass.
- Mr. Peters stated that the basic, minimum level necessary to define and assess competency are in place.
- Dr. McCreery expressed agreement Mr. Peters.
- Dr. Millea also expressed agreement with Mr. Peters.

**Committee Actions Taken on the Proposal as a Whole:**

Action taken: Voting in favor of the proposal were Millea, Black, Dering-Anderson, Peters, and McCreery. By this action the committee members decided to recommend approval of the NDAA/NDA proposal.

Comments from committee members:

- Ms. Black stated that for her it was the utilization of the national 'DANB' standards that made this a proposal she could support.
- Dr. Dering-Anderson stated that this proposal is not perfect but that it is the better of the two proposals under review. However, she added that the sealant issue is still a problem and that it needs to be dealt with somehow, somewhere in this proposal.
- Dr. McCreery stated that there is a need for a continuum of care and that this proposal provides this and does so in a manner that is safe and provides the promise of improved access to dental care.
- Dr. Millea stated that this proposal holds out hope for improved access to dental care for rural Nebraska.
- Mr. Peters stated that the education and training in this proposal provides for a reasonable amount of rigor. He added that he hoped that the two contending parties could find a way to get back together again so that they can move forward together.

**Final Comments by the Committee Members:**

Dr. Dering-Anderson asked all attendees at the meeting to thank program staff for all their work in helping the committee manage its time and effort in dealing with the most complex credentialing review in program history.

Mr. Peters urged the two contending parties to make a concerted effort to return to a cooperative approach to improving the regulation of dental health services in Nebraska.

Ms. Black commented that she wants to see greater effort made to address the needs of underserved areas and populations in our state.

**REPORT OF RECOMMENDATIONS AND FINDINGS  
ON TWO DENTAL AUXILIARIES PROPOSALS TO LICENSE DENTAL  
ASSISTANTS AND ENHANCE THE SCOPE OF PRACTICE OF DENTAL  
HYGIENISTS**

By the Nebraska  
State Board of Health

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

June 22, 2015

## Table of Contents

<b>Part One: Preliminary Information.....</b>	<b>Pages 3-4</b>
<b>Part Two: Summaries of Recommendations by the Board Members.....</b>	<b>Pages 5-16</b>
<b>Part Three: Summaries of the Two Proposals.....</b>	<b>Pages 17-25</b>
<b>Part Four: Discussion on the Issues by the Board Members.....</b>	<b>Page 26-27</b>
<b>Part Five: Recommendation on the Proposals by the Members of the Full Board of Health.....</b>	<b>Page 28</b>

## **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 written reports on the same 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.

## **The Members of the Nebraska State Board of Health**

Kevin Borchert, PharmD, RP

Teresa Konda, PE

Paul Salansky, OD (Secretary)

Wayne Stuberg, PhD, PT

Travis Teeter, MD

Joshua Vest, DPM

Anthony Moravec, DVM

Russell Hopp, D.O.

Diane Jackson, APRN

Kevin Low, DDS

Dale Michels, MD

Debra Parsow (public member)

Roger Reamer, MBA (hospital administrator)

Jim Trebbien (public member)

Shane Fleming, BSN, MSN, RN

Douglas Vander Broek, DC

Jeromy Warner, PsyD, LP

### **Meetings Held**

The Meeting of the Credentialing Review Committee of the Board, March 5, 2015

The Meeting of the Full Board of Health, March 23, 2015

## **Part Two: Summaries of Recommendations by the Board Members**

### ***Recommendations of the Board's Credentialing Review Committee***

#### **Comments by Wayne Stuberg, PT, PhD, Chairperson of the Dental Auxiliaries' Technical Review Committee**

Dr. Stuberg provided an overview of the work of the technical review committee. He stated that the technical review committee members thoroughly and thoughtfully studied the information provided to them by the contending parties.

Dr. Stuberg provided a brief overview of the background of the issues under review, stating that a task force consisting of representatives of each of the three dental professions worked closely together for three years in an attempt to develop a common proposal to reform the regulation of dental services in Nebraska. He went on to state that this effort failed to achieve consensus on the issues among the parties, and that this eventually led to the current situation wherein there are two competing proposals.

Dr. Stuberg stated that the committee members received extensive information from both applicant groups (NDHA and NDA/NDAA) and that they concluded that the NDA/NDAA proposal fits the needs of Nebraskans better than does the NDHA proposal. The committee members were concerned that the NDHA proposal seeks to venture too far beyond current understanding of safe practices and current definitions of regulatory terminology pertinent to oversight, for example.

Dr. Stuberg went on to state that there are points of commonality between the two contending proposals, such as:

- Licensure for dental assistants needs to be established, but that 'OJT' dental assistants would not be required to become licensed
- Some expansion of dental hygiene functions is needed
- Some expansion of dental assistant functions pertinent to nitrous oxide administration is needed
- Expansion of prescriptive authority for dental hygienists is needed

Dr. Stuberg then identified points of contention between the two proposals, such as:

- The amount of additional education and training licensed dental assistants would need to safely perform such procedures as fitting crowns, coronal polishing, applying sealants, or monitoring nitrous oxide administration, for example

- The type of oversight necessary to ensure safe services by ‘OJT’ dental assistants, including whether or not a new tier of supervision should be created for that purpose, namely, direct supervision, for example
- Whether or not there should be an expanded functions credentialing category for licensed dental assistants
- Whether dental hygienists should be allowed to administer local anesthesia under general supervision
- Whether dental hygienists should be allowed to perform such irreversible procedures as tooth extractions, for example
- The education and training necessary to apply dental sealants
- The number of licenses and permits to be created for the respective dental auxiliary professions

Ms. Jackson asked Dr. Stuberger whether ‘OJT’ dental assistants would be required to become licensed under these two proposals. Dr. Stuberger responded that neither proposal requires these dental assistants to become licensed. He went on to state that the members of the technical review committee agreed that the training and oversight of these dental assistants would continue to be the responsibility of the supervising dentist and that this has worked well in Nebraska for many years. He added that under both proposals ‘OJT’ dental assistants would have a pathway to licensure if they satisfy specific clinical requirements and take and pass the examination used for licensing dental assistants.

Deb Parsow asked Dr. Stuberger why both of the proposals under review seek to create multiple tiers of credentialed providers. Dr. Stuberger responded that the rationale for multiple tiers is that this will foster the creation of definable career paths for dental auxiliaries which in turn might reduce the high turnover rate among dental auxiliaries.

### **Comments by David O’Doherty on behalf of the NDA/NDAA proposal**

Mr. O’Doherty stated that a dental task force met for three years attempting to create a single, common proposal for comprehensive reform of the dental statute pertinent to the credentialing of dental auxiliaries. Unfortunately, this attempt failed and the two proposals before the Credentialing Review Program today are the result of this failure to maintain commitment to the goal of a common proposal.

Mr. O’Doherty commented about the multiple tier approach to credentialing in this proposal by stating that this is an approach that has been used in other states to regulate dental auxiliaries and that it has worked very well.

Ms. Jackson asked Mr. O’Doherty why the applicant group for this proposal seeks to perpetuate the ‘OJT’ dental assisting category. Mr. O’Doherty responded that eliminating this category would have serious negative consequences for access to care

in rural areas of Nebraska. Ms. Jackson asked for clarification on this point. Mr. O'Doherty responded that there are relatively few people available to work as dental auxiliaries in rural areas and that there is rapid turnover of auxiliary personnel in these areas. Eliminating the 'OJT' category would compound these problems. He continued by stating that the NDA/NDAA proposal would create a clear career path for these persons and thereby give them a reason to continue working as dental auxiliaries.

Ms. Parsow asked Mr. O'Doherty if there would be a way in which patients could understand the differences between the various tiers of credentialing. He responded that it is not likely that the patient is going to understand this, and that the patient needs to trust the supervising dentist to ensure quality of care in his or her dental practice.

### **Comments by Deb Schardt, RDH, on behalf of the NDHA proposal**

Ms. Schardt stated that she would focus of her comments on dental assistants. Ms. Schardt stated that under the current situation in Nebraska those providing dental assisting services can be anyone, and that there is no assurance of competency in this situation. Ms. Schardt stated that the public needs assurance that dental assistants are educated and trained to safely and effectively perform the services they provide. She commented that the NDHA proposal would accomplish this, whereas the NDA/NDAA proposal would not.

Ms. Schardt went on to criticize the approach used in the NDA/NDAA proposal, commenting that this proposal would create a complex hierarchy of credentialing categories that are going to be difficult and costly for the Department of Health and Human Services to administer, as well as being impossible for the public to understand. She went on to state that the NDHA proposal is superior to the NDA/NDAA proposal in that it offers career advancement and improved education and training without creating an unnecessarily complex, confusing, and costly credentialing process.

### **Discussion on the Issues by the Board Members**

Dr. Teetor asked about nitrous oxide administration, specifically how this procedure is monitored. Dr. Jessica Meeske, DDS, responded that currently this is done via visual observation of the patient for any indications of distress. Dr. Meeske stated that nitrous oxide administration can occur under the indirect supervision of a dentist.

Dr. Meeske commented that, currently, a dental assistant may only monitor nitrous oxide administration, but under the NDA/NDAA proposal licensed dental assistants would be allowed to administer this procedure.

Ms. Parsow asked Dr. Meeske to clarify the difference between general supervision and indirect supervision. Dr. Meeske responded that under general supervision procedures are delegated by the dentist to an auxiliary, and the dentist does not have to be on the premises. Under indirect supervision the dentist must be on the premises but does not have to be in the room where the procedure is occurring.

Dr. Meeske commented that new sedation guidelines defined in LB 80 which is currently under consideration by the Legislature this session hold promise of improving the professionalism and sophistication of all sedation procedures used in dental care. Deb Schardt commented that this proposed legislation does not address education and training issues pertinent to the role of dental auxiliaries in such procedures. Ms. Schardt continued her comments by stating that dental hygienists are leaving Nebraska to find better opportunities in other states where there are greater opportunities for career advancement and where they are allowed to provide more services.

### **Formulation of Recommendations on the Proposals by the Board Committee Members**

#### **Actions taken on the NDHA proposal:**

- Action taken on the four criteria: These actions pertain to the dental assisting portion of the NDHA proposal.

#### **Criterion one: Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public.**

Voting yes were Parsow and Jackson. Voting no were Stuberg and Teetor. These Board committee members commented on their votes as follows:

- Dr. Teetor stated that he could not identify any serious safety concerns inherent in the current situation.
- Dr. Stuberg expressed agreement with Dr. Teetor.
- Ms. Jackson stated that there is no way of knowing for sure whether or not harm might be occurring, and that it might be a good idea to provide greater assurance of safe practices for the public.
- Ms. Parsow commented that potential for harm exists under the current situation.

#### **Criterion two: Regulation of the profession does not impose significant new economic hardship on the public, significantly diminish the supply of qualified practitioners, or otherwise create barriers to service that are not consistent with the public welfare and interest.**

Voting yes were Parsow and Jackson. Voting no were Teetor and Stuberg. These Board committee members commented on their votes as follows:

- Dr. Stuberg stated that this proposal would create an excessive amount of regulation and consequently would be too restrictive.
- Dr. Teetor expressed agreement with Dr. Stuberg.

- Ms. Jackson stated that this proposal could improve regulation and provide better practice standards.

**Criterion three: The public needs assurance from the state of initial and continuing professional ability.**

Voting yes were Parsow, Jackson, Teetor and Stuberg. These Board committee members commented on their votes as follows:

- Dr. Stuberg stated that this proposal does not clearly define the amount of additional training for dental assistants that this applicant group says they need.
- Ms. Parsow agreed with Dr. Stuberg's comment.
- Ms. Jackson also expressed agreement with this comment.
- Dr. Teetor commented that credentialing of these practitioners would benefit the public.

**Criterion four: The public cannot be protected by a more effective alternative.**

Voting no were Parsow, Jackson, Teetor and Stuberg. These Board committee members commented on their votes as follows:

- Ms. Jackson stated that this proposal calls for too much regulation.
- Ms. Parsow expressed agreement with Ms. Jackson.
- Dr. Stuberg stated that this proposal is too restrictive.
- Dr. Teetor stated that this proposal is too confusing pertinent to education and training issues.

- Action taken on the six scope of practice criteria: These actions pertain to the dental hygiene portions of the NDHA proposal.

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

Voting yes was Stuberg. Voting no were Parsow, Jackson, and Teetor.

- Dr. Stuberg stated that education and training should be at a maximum for good quality of care.
- Ms. Jackson commented that current licensure requirements are adequate and that the proposed enhancements are not necessary.
- Dr. Teetor stated that the current provisions of the public health dental hygiene licensure category are adequate to address the need and that nothing more is needed.

- Deb Parsow expressed agreement with Dr. Teetor.

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

Voting no were Parsow, Jackson, Teetor and Stuberg.

- Ms. Parsow stated that this proposal provides no additional benefits for the public.
- Dr. Teetor expressed agreement with Ms. Parsow's comment.
- Dr. Stuberg stated that this proposal has too many irreversible procedures.
- Ms. Jackson expressed agreement with Dr. Stuberg.

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

Voting no were Parsow, Jackson, Teetor and Stuberg.

- Ms. Parsow commented that this proposal would create significant risk of new harm for the public.
- Dr. Teetor expressed concern about the irreversible procedures in this proposal.
- Dr. Stuberg agreed with Dr. Teetor.
- Ms. Jackson also agreed with Dr. Teetor

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

Voting no were Parsow, Jackson, Teetor and Stuberg.

- Dr. Teetor expressed concern about lack of clarity in this proposal as to the 'what-and-where' of the additional training necessary to perform the irreversible procedures defined in the proposal.
- Deb Parsow expressed agreement with Dr. Teetor.
- Ms. Jackson also expressed agreement with Dr. Teetor's comments.
- Dr. Stuberg commented that it was when he saw the expression "dental hygiene diagnosis" that he became concerned about the safety of this proposal.

**Criterion five: 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.**

Voting no were Parsow, Jackson, and Teetor. Voting yes was Stuberg.

- Ms. Jackson stated that she could see no indication that such programs and measures exist.
- Dr. Stuberg commented that such mechanisms would be provided via continuing education.
- Deb Parsow expressed agreement with Ms. Jackson and Dr. Stuberg.
- Dr. Teetor expressed concern as to who would do such assessments and how such assessments would be done.

**Criterion six: 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.**

Voting no were Parsow, Jackson, Teetor and Stuberg.

- Ms. Parsow commented that the proposed new supervisory categories are a problem for her. These are not clear.
- Ms. Jackson commented that it is not clear in this proposal how competency would be assured.
- Dr. Teetor commented that this proposal is not clear as to who provides oversight or evaluates who is performing competently.
- Dr. Stuberg commented that course work is in place for the purposes of this criterion but it is not clear who oversees the process.

- Action taken on the entire NDHA proposal

The Board Credentialing Review Committee Members took action to advise the full Board of Health on whether or not to recommend approval of the NDHA proposal.

***Voting no were Parsow, Jackson, Teetor and Stuberg. By this action the Board committee members recommended against approval of the NDHA proposal.***

- Ms. Parsow commented that the proposal is too complex and unclear.
- Ms. Jackson commented that the risks associated with this proposal would outweigh the benefits.
- Dr. Teetor commented that this proposal is not needed and that the current public health dental hygiene category should suffice for career advancement for this profession. He added that he has concerns about the new irreversible procedures being proposed, and that the proposed new provisions pertinent to sedation were also a concern.
- Dr. Stuberg commented that he too is concerned about the proposed inclusion of new irreversible procedures in this proposal. He added that this proposal is too restrictive regarding dental assistants.

#### **Actions taken on the NDA/NDAA proposal:**

- Action taken on the four criteria: These actions pertain to the dental assisting portion of the NDA/NDAA proposal.

**Criterion one: Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public.**

Voting yes were Parsow and Jackson. Voting no were Stuberg and Teetor.

- Dr. Stuberg commented that no evidence was presented to indicate that any harm is occurring under the current situation.
- Dr. Teetor expressed agreement with Dr. Stuberg.
- Ms. Jackson commented that under the current situation there is no way of knowing if harm is occurring or not.
- Ms. Parsow commented that potential for harm is there.

**Criterion two: Regulation of the profession does not impose significant new economic hardship on the public, significantly diminish the supply of qualified practitioners, or otherwise create barriers to service that are not consistent with the public welfare and interest.**

Voting no were Parsow, Jackson, Teetor, and Stuberg.

- Dr. Stuberg commented that this proposal would not create barriers to services.
- Ms. Parsow expressed agreement with Dr. Stuberg's comment.
- Dr. Teetor stated that this proposal provides for greater access to care for the public.
- Ms. Jackson commented that this proposal would decrease barriers to services.

**Criterion three: The public needs assurance from the state of initial and continuing professional ability.**

Voting yes were Parsow, Jackson, Teetor, and Stuberg.

- Dr. Stuberg commented that this proposal is clear regarding what is expected of dental auxiliaries pertinent to education, training, and oversight.
- Ms. Parsow commented that the public needs assurance of competency and this proposal does this.
- Dr. Teetor stated that the proposed tiers of credentialing holds promise of greater professional development among dental auxiliaries.
- Ms. Jackson expressed agreement with Dr. Teetor's comment.

**Criterion four: The public cannot be protected by a more effective alternative.**

Voting no were Parsow, Jackson, and Teetor. Voting yes was Stuberg.

- Dr. Stuberg commented that this proposal is not necessary to protect the public from harm since there is no evidence that there is any harm, but added that the proposal has potential to improve standards of practice and the quality of services.
- Ms. Parsow commented that there are other ways of addressing concerns about quality of care than those described in this proposal.
- Dr. Teetor expressed agreement with Ms. Parsow.

- Action taken on the six scope of practice criteria: These actions pertain to the dental hygiene portions of the NDA/NDAA proposal.

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

Voting no was Parsow. Voting yes were Jackson, Teetor and Stuberg.

- Dr. Stuberg commented that some elements of this proposal would help improve access to care.
- Dr. Teetor commented that access would improve under this proposal.
- Ms. Jackson commented that this proposal could help to ensure continuity of care.
- Ms. Parsow commented that it is not clear whether this is the case or not.

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

Voting no was Parsow. Voting yes were Jackson, Teetor and Stuberg.

- Ms. Jackson commented that this proposal could improve opportunities for dental auxiliaries.
- Dr. Stuberg expressed agreement with Ms. Jackson.
- Dr. Teetor also expressed agreement with Ms. Jackson.
- Ms. Parsow commented that there is no clear benefit to this proposal.

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

Voting no was Parsow. Voting yes were Jackson, Teetor and Stuberg.

- Dr. Teetor commented that he sees no new harm from this proposal.
- Dr. Stuberg commented that this part of the proposal lacks clarity.
- Ms. Parsow expressed agreement with Dr. Stuberg's comment.
- Ms. Jackson also expressed agreement with Dr. Stuberg's comment.

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

Voting yes were Parsow, Jackson, Teetor and Stuberg.

- Dr. Stuberg commented that other states have implemented these changes and these changes are consistent with current national guidelines.
- Dr. Teetor commented that the education and training being proposed is sound.
- Ms. Jackson commented that there would be 'CE' and that this would help address concerns about training raised during the review.

**Criterion five: 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.**

Voting yes were Parsow, Jackson, Teetor, and Stuberg.

- Dr. Stuberg commented that the post professional requirements including the 'CE' would have skills assessment.
- Dr. Teetor expressed agreement with Dr. Stuberg's comment.

**Criterion six: 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.**

Voting yes were Teetor and Jackson. Voting no were Parsow and Stuberg.

- Dr. Stuberg commented that this proposal places too much responsibility on the dental supervisor, and that the consumer cannot know or assess what is going on vis-à-vis the services.
- Dr. Teetor stated that he has confidence that dentists would continue to provide good oversight under the terms of this proposal.
- Ms. Jackson commented that she has confidence that the 'CE' would provide assurance of competency.

- Action taken on the entire NDA/NDAA proposal

The Board Credentialing Review Committee Members took action to advise the full Board of Health on whether or not to recommend approval of the NDA/NDAA proposal.

***Voting yes were Jackson, Teetor and Stuberg. Voting no was Parsow. By this action the Board committee members recommended approval of the NDA/NDAA proposal.***

- Dr. Teetor commented that he sees this proposal as the lesser of the two evils. Both proposals are complex and confusing, but this proposal offers more for the public than does the NDHA proposal.
- Dr. Stuberg commented that this proposal is the least restrictive of the two proposals, yet it provides reasonable assurance of competently delivered services.
- Ms. Jackson expressed agreement with Dr. Stuberg's comment.
- Ms. Parsow commented that this proposal is not necessary. It would greatly complicate the ability of the consuming public to know and assess the services they are receiving without clear benefits to compensate for these shortcomings.

### ***Recommendations of the Nebraska State Board of Health***

The members of the Nebraska State Board of Health recommended approval of the advice presented to them by the members of the Board's Credentialing Review Committee which was to recommend approval of the NDA/NDAA proposal.

## **Part Three: Summaries of the Two Proposals**

### ***OVERVIEW OF THE NDA/NDAA PROPOSAL***

#### **Proposed changes for dental hygienists:**

Three levels of Dental Hygienists would be defined, the Registered Dental Hygienist, the Expanded Function Restorative Dental Hygienist, and the Public Health Registered Dental Hygienist.

- The duties of the Registered Dental Hygienist would include prescribing mouthrinses and fluoride products, administering local anesthesia and reversal agents, and performing orofacialmyology, all under general supervision.
- The duties of the Expanded Function Restorative Dental Hygienist would include minor denture adjustments, placement and finishing of dental restorations, and the extraction of primary teeth that are ready to exfoliate, all under general supervision.
- The duties of the Public Health Registered Dental Hygienist would include orofacialmyology including periodontal debridement, local anesthetic and reversal agents under the orders of either a dentist or a physician, prescriptions for topical mouthrinses and fluoride, minor denture adjustments and denture reline, and palliative care to include smoothing of rough edges of a tooth, and dental hygiene diagnosis, all under general supervision.

#### **Proposed changes for dental assistants:**

Three levels of Dental Assistants would be defined, the Dental Assistant, the Licensed Dental Assistant, and the Expanded Function Dental Assistant.

- The duties of the Dental Assistant would include monitoring nitrous oxide and placing topical local anesthesia under indirect supervision. These Dental Assistants would be allowed to take dental x-rays and perform coronal polishing under general supervision.
- The Licensed Dental Assistant would be allowed to place pit and fissure dental sealants, fit and cement crowns on primary teeth, and take final impressions for dental prostheses (crowns and bridges, for example) under indirect supervision.
- The Expanded Function Dental Assistant would be allowed to perform all of the duties of a Licensed Dental Assistant, plus place and finish dental restorations under indirect supervision.

Every applicant for licensure as a Dental Assistant would be required to take and pass an examination approved by the Board of Dentistry. There are two routes that a candidate can take to become eligible to take the licensure examination, and they are 1) successful completion and graduation from a training program for dental assistants approved by the Board of Dentistry, and 2) possess a high school diploma or its equivalent and have at least 1500 hours of work experience as a dental assistant. Ms. Cronick went on to state that there are four additional areas of competency available to those licensed dental assistants who satisfy the requirements for special permits in these respective areas of competency. These areas of competency are as follows: 1) fixed prosthodontics, 2) removable prosthodontics, 3) fit and cement crowns as part of pediatric care, and 4) monitor and titrate nitrous oxide.

Expanded functions available to those dental assistants who satisfy additional education and training standards would be eligible to provide certain expanded functions. These include additional functions in fixed prosthodontics and dental restorations with additional permit requirements in each category. Not all functions of dental assisting require licensure, which is why the proposal does not require licensure for all dental assistants or all dental assistant functions.

***NDA/NDAA descriptions of the differences between the proposals under review:***

**For Dental Assistants with on-the-job-training only:**

- **NDA / NDAA Proposal:** CPR training is highly recommended, but if they are to monitor nitrous oxide they must receive CPR training and work under indirect supervision. These dental assistants would be allowed to provide the following: 1) placement of topical local anesthesia under indirect supervision, 2) take dental x-rays and perform coronal polishing, in each case after satisfying appropriate certification requirements under general supervision. Current duties as outlined in current state statutes and rules and regulations would continue. This proposal does not provide for the direct supervision of any dental assisting functions or procedures.
- **AGREE BETWEEN THE PROPOSALS: Placement of topical anesthetic under indirect supervision and infection control training consistent with OSHA requirements. They may be trained on-the-job or graduate from a CODA dental assisting program.**
- **NDHA Proposal:** These dental assistants would be required to complete CPR training. A minimum age requirement of nineteen years of age would be required. These dental assistants would be allowed to provide the following: 1) monitor nitrous oxide administration under direct supervision

if they satisfy appropriate certification standards to do this, 2) perform coronal polishing and take dental x-rays after meeting appropriate training standards. Current duties as outlined in current state statutes and rules and regulations would continue. This proposal would not allow these dental assistants to provide any functions or procedures under general supervision.

**For Licensed Dental Assistants with formal training:**

- **NDA / NDAA Proposal:** That these dental assistants would be allowed to provide the following under indirect supervision: 1) Fit and cement crowns on primary (baby) teeth, 2) perform retractions and take impressions for fixed prosthodontic level 1, 3) perform liner and adjustments and impressions for removable prosthodontics (crowns, bridges, etc.), and 4) monitor and titrate nitrous oxide. This proposal does not provide for any functions or procedures to occur under direct supervision. This proposal does not allow dental assistants to provide placement of pit and fissure sealants. Current duties as defined in statute and rule and regulation would continue.
- **AGREEMENT BETWEEN THE PROPOSALS:** A minimum age requirement of nineteen years of age would be required for these dental assistants, as would CPR certification, graduation from a CODA dental assisting program or on-the-job training, and then passing the current Dental Assisting National Board certification examination or an equivalent board approved examination. They would also be required to pass a Nebraska jurisprudence examination. They must become licensed under the Department of Health and Human Services and complete continuing education per Uniform Credentialing Act.
- **NDHA Proposal:** These dental assistants would be required to achieve 3500 hours of chairside experience. Their licensing examination would need to include testing for clinical competency. They would be allowed to provide the following: 1) placement of dental sealants after completion of a training course, 2) fit and cement crowns on primary (baby) teeth, 4) take final impressions/records for dental prosthesis (crowns, bridges, etc. with course) under direct supervision. Current duties as defined in statute and rule and regulation would continue. The NDHA proposal does not provide for any functions or procedures for these dental assistants to occur under indirect or general supervision.

### **For Expanded Function Dental Assistants:**

- **NDA / NDAA Proposal:** These dental assistants would be required to be at least nineteen years of age. They must have 1500 hours as an LDA. They must complete a Board approved course. They must complete and pass the DANB EFDA examination or an equivalent Board approved examination, and then become licensed as an EFDA dental assistant under the Department of Health and Human Services and complete CE consistent with UCA requirements. These dental assistants would be allowed to perform the following under indirect supervision: Adjust and cement fixed prosthodontics 2, perform level 1 and level 2 restorations including temporary fillings, with the supervising dentist checking their work. Current duties as defined under current statutes and rules and regulations would continue.
- **NDHA Proposal:** This proposal does not include an expanded function category under its provisions for dental assistant credentialing.

### **For Dental Hygienists, basic license:**

- **NDA / NDAA Proposal:** This proposal would allow these dental hygienists to administer and titrate nitrous oxide under a dentist's orders under indirect supervision. This proposal would allow these dental hygienists to use interim therapeutic technique and write prescriptions for mouth rinses and fluoride products that reduce risk of tooth decay under general supervision. Current duties as defined under current statutes and rules and regulations would continue.
- **AGREEMENT BETWEEN THE PROPOSALS: Allow the administration of nitrous oxide under indirect supervision and allow Interim Therapeutic Technique and writing prescriptions for mouth rinses and fluoride products that help decrease one's risk for tooth decay under general supervision.**
- **NDHA Proposal:** This proposal would allow these dental hygienists to administer nitrous oxide after completion of a training course for this procedure under indirect supervision. These dental hygienists would be allowed to provide the following under general supervision: 1) Local anesthesia and reversal agents, 2) orofacial myology, 3) dental hygiene diagnosis, 4) placing interim therapeutic restorations after completion of a training course, 5) writing prescriptions for mouth rinses and other topical products and fluoride products after completion of a training course, 6) extracting teeth if there is a 'class 1V' mobility and hopeless prognosis after completion of a training course, and 7) application of an enameloplasty sealant technique after completion of a training course.

Current duties as defined under current statutes and rules and regulations would continue.

**For Expanded Function Dental Hygienists:**

- **NDA/NDAA Proposal:** This proposal would allow these dental hygienists to place and finish the following dental restorations: 1) restorative level 1, including bases, sedative, temporary fillings, restorative class 1, V, and V1; 2) restorative level 2, including restorative class 11, 111, and 1V under indirect supervision. Minor denture adjustments would be allowed under public health supervision. Current duties currently defined in statute and rule and regulation would continue.
- **AGREEMENT BETWEEN THE PROPOSALS:** Both proposals would require the following: 1) Current RDH and EFDH licensure, 2) Proof of liability insurance, 3) Complete a special course, didactic and clinical, within an accredited dental school, or complete an equivalent examination from another state, 4) Pass a Board approved examination, or the DANB national examination currently under development.
- **NDHA Proposal:** Placement and finishing dental restorations and preparation of class 1 and class V restorations would be allowed under general supervision. Current duties currently defined in statute and rule and regulation would continue.

**For Public Health Dental Hygienists:**

- **NDA/NDAA Proposal:** This proposal would allow these dental hygienists to provide Interim therapeutic technique and prescribe topical mouth rinses and fluoride to decrease risk of tooth decay under public health supervision.  
Current duties currently defined in statute and rule and regulation would continue.
- **AGREEMENT BETWEEN THE PROPOSALS:** 1) Have a current RDH licensure and have a public health permit, 2) Have proof of liability insurance, 3) Be authorized by the Department of Health and Human Services and report to this department as required.
- **NDHA Proposal:** proposes that full scope of dental hygiene practice be allowed including the following: 1) interim therapeutic restorations after completion of a training course, 2) dental hygiene diagnosis, 3) writing prescriptions for mouth rinses and other topical products including fluoride products that decrease risk of tooth decay, 4) extraction of primary teeth, without use of anesthetic, 5) extraction of permanent teeth, with or without anesthesia, under orders of either a dentist or a physician after completion of a special training course, based upon class 1V hopeless prognosis, 6)

orofacialmyology after completion of a national certification, and 7) adjustment of removable appliances and soft reline, all of these being under public health supervision.

**Note:** More detailed information on this proposal can be found at “Credentialing Review for Expanding Scopes of Practice for Dental Hygiene and Assisting: A Collaborative Model for Teamwork that Promotes Better Cost-Efficiency and Improved Access for Delivery of Dental Care in Nebraska” submitted by the Nebraska Dental Assistants’ Association (NDAA) and the Nebraska Dental Association (NDA) August 5, 2014

Additional information on the details of this proposal can be found in the following documents:

“407 NDA NDHA Comparison—Hygienists”

“407 NDA NDHA Comparison—Dental Assistants”

Note: These sources are posted on the Credentialing Review Program link which is [http://dhhs.ne.gov/Pages/reg\\_admcr.aspx](http://dhhs.ne.gov/Pages/reg_admcr.aspx)

## ***OVERVIEW OF THE NDHA PROPOSAL***

### **Proposed changes for dental hygienists:**

The changes requested for Dental Hygienists’ credentialing includes the inclusion of the entire range of services of the members of this profession under general supervision, meaning that the supervising dentist would not be required to be on the premises while they provide their services.

The services of the Public Health Dental Hygienist would include interim therapeutic restorations, extraction of primary teeth and permanent teeth with or without anesthesia under standing orders of a dentist, adjusting removable appliances, applying sealants, and orofacialmyology.

A new Expanded Function Registered Dental Hygienist would be created. This category would place and finish restorations and extract primary teeth under general supervision within a dental practice.

### **Proposed changes for dental assistants:**

Two levels of Dental Assistants would be defined, the Dental Assistant and the Licensed Dental Assistant.

Dental Assistants would be allowed to monitor nitrous oxide under direct supervision of a dentist. Dental Assistants would be allowed to take dental x-rays, perform coronal polishing, and place topical local anesthesia. Licensed Dental Assistants would be allowed to place dental sealants, fit and cement

crowns on primary teeth, and take final impressions for dental prosthesis (crowns and bridges, for example) under direct supervision.

***NDHA comments defining the differences between the proposals under review:***

**For Dental Assistants with on-the-job-training only:**

- **Nebraska Dental Hygienists' Association (NDHA)** proposes the establishment of a minimum age requirement, Required CPR, and Direct supervision of a dental assistant who is monitoring nitrous oxide or sedation patients. NDHA also proposes that assistants take course similar to that required for hygienists for monitoring nitrous oxide. This would mean that the dentist would check this patient prior to dismissal to assure that they are recovered.
- **AGREE: NEW: place topical anesthetic under indirect supervision, with infection control training required.**
- **Nebraska Dental Association (NDA)** opposes a minimum age requirement and recommends CPR, if an assistant is to monitor nitrous oxide. NDA agrees that they should be CPR certified per requirements in the statute.

**For Licensed Dental Assistants with formal training:**

- **Nebraska Dental Hygienists' Association** proposes that the hours of experience consist of 3500 hours of chairside experience
- **Under *DIRECT* supervision Nebraska Dental Hygienists' Association** proposes that dental assistants be allowed to place dental sealants, fit and cement crowns on primary teeth, take final impressions/records for dental prosthesis (crowns, bridges, etc. with course)
- **AGREE: 19 yr. old, CPR certified, Current Dental Assisting National Board certification or equivalent board approved exam to include clinical competency and testing. Pass NE jurisprudence exam. Become licensed with Health and Human Services and complete Continuing Education per Uniform Credentialing Act.**
- **Nebraska Dental Association** proposes that the procedure of placing pit and fissure sealants be removed from the entire proposal. That dental assistants are allowed to provide the following under ***INDIRECT supervision***: Fit and cement crowns on primary teeth, take final impressions/records (including digital) for dental prostheses (crowns, bridges, etc.) and **Administer and adjust nitrous oxide per dentist order. (This is the same that is being requested for licensed dental hygienists and under the same supervision level).**

**For Dental Hygienists, all of whom have formal training:**

- **Nebraska Dental Hygienists' Association** proposes that orofacialmyology be included in dental hygiene scope of practice, as is presently being permitted by the Board of Dentistry but should be expressed in statute.
  - Provide a dental hygiene diagnosis. (needed to determine dental hygiene treatment plan). Hygienists already do this and is part of their accredited educational requirements. Upon completion of a required training course, extract teeth with a class IV mobility and hopeless prognosis.
  - Upon completion of an appropriate training course, provide Enameloplasty sealant technique.
- **Under *GENERAL* supervision:** Administer local anesthesia and reversal agents.
  - Take final impressions (this is allowed for the proposed licensed dental assistant)
- **AGREE: Under *INDIRECT* supervision, administer nitrous oxide (already being taught in dental hygiene programs.)**
  - **Under *General* supervision: Place Interim Therapeutic Restorations (with course), write prescriptions for mouth rinses and other topical products as well as fluoride products that help decrease one's risk for tooth decay (with course)**

**For Public Health Dental Hygienists:**

- **Nebraska Dental Hygienists' Association** proposes the full scope of dental hygiene scope of practice with the additions that are listed above.
  - Adjust removable appliances/soft reline (**with course**) to enable hygienists to help those without a dental home to be able to carry on the activities of daily living.
  - With an appropriate training course, provide Palliative care to include smoothing of a rough edge of a tooth.

**For the Expanded Function Dental Hygienists:**

- **Nebraska Dental Hygienists' Association** supports **Under *General Supervision*:** current scope of practice of a licensed dental hygienist and public health permit hygienist. **ALSO:** Place and finish dental restorations and preparation of a class I and class V restoration per dentist order. **Must**

be a licensed registered Dental Hygienist and have (additional coursework required that would include completion of course with didactic and clinical components taught by an accredited dental school or has completed equivalent exam from another state). Pass board approved exam, proof of liability insurance, and licensure for expanded function. Nebraska Dental Hygienists' Association supports the same clinical competency for dentists, hygienists and assistants that are doing the same procedures. This educational requirement needs to be outlined in statute to protect the public.

**For the Expanded Function Dental Assistant:**

- **Nebraska Dental Association** proposes **Under *Indirect* supervision:** a dental assistants with 1500 hours as a licensed dental assistant who has completed a Dental Assisting National Board Expanded Function Dental Assistant exam **OR** a board approved exam. Obtain Expanded Function Dental Assistant license from Health and Human Services and complete Continuing Education per Uniform Credentialing Act. Duties: Place and finish dental restorations (fillings, crowns, etc.)

**Note:** More detailed information on this proposal can be found at “Credentialing Review for Expanding Scope of Practice for Dental Hygiene and Establishing a Scope of Practice in Statute for Dental Assisting: Breaking Down Barriers: Oral Health Care Stakeholders Working to Expand Access to Dental Care for Underserved Populations” submitted by the Nebraska Dental Hygienists' Association (NDHA) August 13, 2014

Additional information on the details of this proposal can be found in the following documents:

“Dental Hygienist Comparison Chart”

“Dental Assistant Comparison Chart”

“TR Proposal Introduction”

Note: These sources are posted on the Credentialing Review Program link which is [http://dhhs.ne.gov/Pages/reg\\_admcr.aspx](http://dhhs.ne.gov/Pages/reg_admcr.aspx)

## **Part Four: Discussion on the Issues by the Board Members**

### **Comments by Deb Schardt, RDH**

Ms. Schardt stated that the NDA/NDAA proposal is too complex and would be difficult for the Department to administer. She made the observation that this proposal would create seven different tiers of dental assistant providers, and commented that some of the procedures this proposal would allow dental assistants to perform are currently done only by dentists, and that dental assistants would be allowed to perform these procedures without any additional training or competency testing requirements. She added that the proposed level of oversight for the new dental assisting procedures would not be adequate to ensure safety. She informed the Board members that instances of harm have occurred because of inadequate oversight of poorly trained dental assistants.

Dr. Low asked Ms. Schardt if dental hygienists are qualified to perform advanced procedures. Ms. Schardt responded in the affirmative. Dr. Low then asked Ms. Schardt why the NDHA proposal includes 'on-the-job training' for dental assistants if, as she says, there is such a concern about the safety of the services provided by dental assistants who lack formal education and training. Ms. Schardt responded that this provision is needed to ensure continuation of dental assisting services in remote rural areas.

### **Comments by David O'Doherty, Crystal Stuhr, and Cindy Cronick**

David O'Doherty, speaking on behalf of the Nebraska Dental Association proposal, responded to the assertion that the NDA/NDAA proposal would create seven tiers of dental assisting providers by stating that this assertion is not accurate. He stated that there would be three tiers of dental assisting providers, not seven. He acknowledged that within the top two tiers there would be opportunities for dental assistants to satisfy requirements for permits to perform certain advanced procedures, but that these permits do not, per se, create additional tiers of credentialed providers.

Cindy Cronick, a dental assisting instructor, commented that the purpose of the expanded functions in the NDA/NDAA proposal is to increase access to services. Expanded functions for dental assistants allows the dentist to attend to other, more serious problems.

Crystal Stuhr, a dental assisting instructor, commented that the safety of the patient is a vital concern of hers and that the NDA/NDAA proposal would provide safe dental care services to Nebraskans. She went on to state that every procedure defined for dental assistants in this proposal is reversible, which is not true of the NDHA proposal. Ms. Stuhr went on to state that dental assistants work more closely with dentists than do dental hygienists. This close relationship provides the dental assistant with more experience vis-à-vis the operative day-to-day care provided by dentists than is achieved by dental hygienists. She stated that dental hygienists focus more on

preventive care than on day-to-day patient care. Dr. Hopp commented that this may be true, but that there can be no doubt that a dental hygienist can do more when the dentist is not in the room than can a dental assistant.

Dr. Hopp asked what percentage of dental offices in Nebraska employ dental assistants, and what percentage employ dental hygienists. He was informed that about ninety-eight percent of dental offices employ dental assistants. Information about the percentage of dental offices employing dental hygienists was less exact, but the assertion was made that it is a lower percentage than for dental assistants, although it is a high number.

Dr. Hopp asked how many dental assistants would likely seek licensure. Cindy Cronick responded that there are approximately three hundred and forty certified dental assistants in Nebraska, and that of the approximately two thousand five hundred dental assistants in Nebraska these certified dental assistants would most likely be the ones who would seek licensure.

Dr. Hopp asked why sealant provisions were left out of the NDA/NDAA proposal. Cindy Cronick responded that the sealant issue was too contentious within the dental profession, with different specialties taking different stands on this issue. It became clear that continuing to seek a consensus on this matter would have been counterproductive. Ms. Cronick added that sealants are reversible procedures that are a component of preventative care, and that even a bad sealant is better than no sealant at all.

**Part Five: Recommendation on the Proposals by the Members of the Full Board of Health**

***Actions Taken on Both Dental Auxiliary Proposals by the Full Board of Health on the advice of their Credentialing Review Committee:***

The members of the full Board of Health voted to approve the advice presented to them by the Board's Credentialing Review Committee which was to recommend approval of the NDA/NDAA proposal. Voting yes were Borchert, Fleming, Jackson, Low, Reamer, Salansky, Stuberger, Teeter, Vander Broek, Vest, and Warner. Voting no were Michels and Hopp.