

# NEBRASKA

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DEPT. OF HEALTH AND HUMAN SERVICES



Jim Pillen, Governor

July 14, 2024

The Honorable John Arch  
Speaker of the Nebraska Legislature  
P.O. Box 94604  
Lincoln, NE 68509

The Honorable Raymond Aguilar  
Executive Board of the Legislature  
Nebraska Legislature  
P.O. Box 94604  
Lincoln, NE 68509

The Honorable Ben Hansen  
Health & Human Services Committee  
Nebraska Legislature  
P.O. Box 94604  
Lincoln, NE 68509

Subject: Credentialing Review Final Report for Hearing Care Professionals

Dear Speaker Arch, Chairman Aguilar and Chairman Hansen:

In accordance with Neb. Rev. Stat. 71-6226, the Division of Public Health in the Department of Health and Human Services submits the final report of the credentialing review process to make changes in the Hearing Instrument Specialists scope of practice. This report includes the recommendations of the technical review committee, the state Board of Health, and the Director of the Division of Public Health.

Sincerely,

A handwritten signature in blue ink that reads "Charity Menefee".

Charity Menefee  
Director, Division of Public Health

Attachments

# Division of Public Health

## Credentialing Review Final Report for Hearing Care Professionals

July 2024

Neb. Rev. Stat. § 71-6226

# The Report Of The Director Of The Division Of Public Health On The Proposal To Make Changes In The Scope Of Practice Of Hearing Care Instrument Dealers And Dispensers

## 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 this Act. As Director, I am presenting this report under the authority of this Act.

## Summary of the Current Hearing Care Professionals Proposal

The purpose of the requested review is to enhance the authorized scopes of practice for licensed Audiologists, Hearing Instrument Specialists (HIS), and Hearing Instrument Dispensers to better serve hearing impaired patients throughout Nebraska. The proposed changes can be summarized as:

1. Allow HIS to provide cerumen management.
2. Ensure that HIS and Audiologists can order the dispensing of the newly created over the counter and prescription hearing aid categories following the August 2022 U.S. Food and Drug Administration final rule.
3. Provide a comprehensive description of what qualifies as "dispensing of hearing instruments".
4. Update filing and examination requirements as well as hearing assessment protocols.

The changes that the society would seek are through amendments to sections Neb. Rev. Stat. §§ 38-511 and 38-1501.

The final amended version of the proposal states that: 1) Tympanometry has been removed from the proposal entirely, while tinnitus care would only be through tinnitus maskers in accordance with manufacturers audiology department staff; 2) Continuing education would be for the purpose of cerumen removal only, and cerumen removal is now the principal reason for the changes in scope being sought; and 3) Only persons defined as adults would be treated by the members of the applicant group. Under the amended proposal, there would be more referrals to Audiologists from members of the applicant group.

The full text of their proposal can be found under the Hearing Care Professionals review of the credentialing review program link at <https://dhhs.ne.gov/Licensure/Pages/Credentialing-Review.aspx>

## The Recommendations of the Technical Review Committee and the Nebraska State Board of Health on the Hearing Care Professionals Proposal

The Technical Review Committee members recommended against this proposal. The members of the Nebraska Board of Health also recommended against this proposal.

## The Recommendations of the Director of Public Health on the Hearing Care Professionals Proposal

### Discussion on the six statutory criteria of the Credentialing Review Program as they relate to the Hearing Care Professionals 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.**

From a public health and access-to-care perspective, changing this scope as proposed would improve access to services for many Nebraskans. Specifically, this change is poised to create significant benefit to Nebraskans residing in long-term care facilities who can benefit from services provided onsite by HIS.

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

Enacting the proposal will provide improved access for Nebraskans for these specific activities as outlined in the proposal – including those residing in long-term care facilities.

**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.**

At least two states, North Carolina and Tennessee, include cerumen management in the scope of practice for HIS. I was unable to find any record of a HIS in those states receiving disciplinary action related to cerumen management or removal that would indicate that there is increased safety concern in those states. Conversely, changing the scope of practice as proposed in Nebraska could provide improved access throughout the state – especially for elders who reside in long-term care. Furthermore, the changes as proposed include strict requirements for referral to medical professionals if certain contraindications are present which will limit the risk to clients.

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

Upon review of all the documents and exhibits presented during this credentialing review process, the primary concern regarding cerumen management revolved around the training requirements. Consequently, the Legislature can consider ensuring that the following items are included in any

legislation to bolster those requirements: the cerumen management training course should be overseen by a physician, preferably an otolaryngologist, consist of at least 6 hours of hands-on practice removing cerumen from an ear canal model using a variety of safe techniques, and result in a certificate of completion and attestation of competence signed by the overseeing physician. These criteria are more robust and mirror the requirements that have safely been in place in Tennessee since 2021 (reference: Tenn. Code Ann. § 63-17-224).

**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.**

To further alleviate the competency concerns which revolved around specific cerumen management training being identified through the credentialing review process but not in the proposal, the Legislature can also include more specific language in the scope of practice update to reflect that HIS must complete a cerumen management course approved by the International Hearing Society, the American Academy of Otolaryngology-Head and Neck Surgery, or another organization approved by the Board of Hearing Instrument Specialists.

**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.**

If the Legislature includes the bolstered training requirement language recommended in criterion four and five, then the initial competency concerns identified by opponents to the proposal should be greatly reduced. For “appropriate action if they are not performing competently,” this process already exists and is outlined in the Uniform Credentialing Act.

## Final Thoughts

The purpose of the credentialing review process is to ensure that health, safety and welfare of the public are prioritized during scope of practice adjustments. This includes walking the line of balancing access for Nebraskans and their protection. Given the recommended scope of practice changes in the proposal and the additional training recommendations I included in this report, I believe that the criteria will be met to safely adopt this scope of practice change while improving access to these services for many Nebraskans.