REPORT OF RECOMMENDATIONS AND FINDINGS

By the Compulsive Gambling Counselors'
Technical Review Committee

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

January 7, 2009

TABLE OF CONTENTS

HEADINGS PAGES

Introduction 1

Members of the Gambling Counselors' Technical Review Committee 2

Executive Summary of the Proposal and Recommendations 3

- Summary of the Gambling Counselors' Proposal 3
- Summary of Committee Recommendations 4

Issues Discussed by the Committee 6

Committee Recommendations 11

Overview of Committee Proceedings 14

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 four statutory criteria contained in Section 71-6221 of the Nebraska Revised Statutes. These criteria focus the attention of committee members on the public health, safety, and welfare.

The recommendations of technical review committees take the form of written reports that are submitted to the State Board of Health and the Director of the 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.

MEMBERS OF THE COMPULSIVE GAMBLING COUNSELORS' TECHNICAL REVIEW COMMITTEE

Edward Discoe, M.D. (Chairperson) **(Columbus)**
Representing the State Board of Health
Family Practice Physician

Curtis Bonebright, L.A.D.C. **(Lincoln)**
The Recovery Center

Kelli Cummins-Brown, J.D. **(Wahoo)**
MDS Pharma Services

Chrisella C. Lewis **(Hastings)**
County Clerk of Adams County, Nebraska

Rick McNeese, Ph.D., Assistant Administrator, Behavioral Health **(Lincoln)**
Representing the Nebraska Psychological Association
Nebraska Department of Correctional Services

Janet Rochford **(Kearney)**
Retired Construction Contractor

Michael Sullivan, L.C.S.W., C.C.G.C. **(Norfolk)**
Representing Certified Compulsive Gambling Counselors
Self-Employed

EXECUTIVE SUMMARY OF THE PROPOSAL AND RECOMMENDATIONS

Summary of the Applicants' Proposal

The representatives of the applicant group propose to license Compulsive Gambling Counselors in the State of Nebraska. Currently, most gambling counselors in Nebraska are certified by the Gambling Assistance Program within the Nebraska Department of Health and Human Services, Division of Behavioral Health. They propose a regulatory board for this profession composed of seven mental health, substance abuse or pathological gambling professionals. There would be a minimum of three pathological gambling professionals on the board, which would operate under the guidelines of the Uniform Credentialing Act (UCA).

The applicants indicated that their proposal would allow them to use their counseling skills to treat both compulsive gamblers and problem gamblers. They determine the nature and extent of a client's gambling problem by screening and assessment based upon information generated by interviews and a questionnaire. However, they are not able to diagnose a client's mental health condition.

The applicants' proposal would require successful completion of the following core educational areas (this is the current certification standard in Nebraska):

- Basic compulsive gambling knowledge (a minimum of twelve hours)
- Intake and assessment of gambling clients (a minimum of twelve hours)
- Significant other treatment of compulsive gambling (a minimum of twelve hours)
- Case management for compulsive gambling clients (a minimum of twelve hours)
- Individual and group counseling skills with compulsive gamblers (a minimum of twelve hours)
- Special population issues for compulsive gambling counseling (a minimum of six hours)
- Legal and financial aspects of compulsive gambling (a minimum of six hours)

Candidates for licensure would need to document at least two hundred clock hours of practical experience. A minimum of twenty of the two hundred hours must be under the supervision of a Division of Behavioral Health Services approved supervisor. Within the framework of this practicum the following would be required:

- A minimum of forty hours in the area of intake and assessment
- A minimum of forty hours in the area of case management
- A minimum of eighty hours in the area of counseling
- A minimum of twenty hours in the area of client, family, and community education
- A minimum of twenty hours in the area of professional responsibility

The applicants stated that they intend to use the current certification examination as the licensure examination under the terms of the proposal. This is a nationally standardized examination and is available from CASTLE Worldwide, Inc. The cost per person to sit for this examination is seventy-five dollars.

The proposal would grandfather in those practitioners who have satisfied the current requirements for certification.

Summary of Committee Recommendations

Summary of Preliminary Recommendations

The members of the Compulsive Gambling Counselors' Technical Review Committee formulated preliminary recommendations on the proposal during their October 2, 2008 meeting by taking action on the four statutory criteria. The committee members tentatively recommended approval of each of the criteria, and thus of the proposal.

Summary of Final Recommendations

The Public Hearing on the proposal took place on October 29, 2008. After careful review of the testimony, the committee met again on December 12, 2008, to formulate final recommendations on the proposal by taking action on the four statutory criteria.

Criterion one states:

Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument.

The committee members determined that the current unregulated situation of gambling counselors satisfies Criterion One.

Criterion two states:

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 consistent with the public welfare and interest.

The committee members determined that that the applicants' proposal satisfies Criterion Two.

Criterion three states:

The public needs, and can reasonably expected to benefit from, assurance of initial and continuing professional ability by the state.

The committee members determined that that the applicants' proposal satisfies Criterion Three.

Criterion four states:

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

The committee members determined that that the applicants' proposal satisfies Criterion Four.

Because all four criteria were found to be satisfied, the committee members recommended approval of the applicants' proposal.

The committee members unanimously approved the following ancillary recommendations:

1. The licensure concept should be modified to include provisional licensure, using the current LADC provisional licensure requirements as a model.

2. Strong consideration should be given to raising education and training requirements as recently developed by the GAP program as the basis for provisional licensure. (See attachments for details)

3. Full licensure should include the educational and training requirements of provisional licensure plus practicum hours and a formal exam.

4. A specific scope of practice should be determined so as to ensure that it is consistent with the proposed education and training requirements of this profession.

ISSUES DISCUSSED BY THE COMMITTEE

1. **Is the current situation a source of significant harm or potential for harm to the public health and welfare?**

   - The applicants argued that the current unlicensed status of their profession creates access to care problems because third party payers will not reimburse for the services of unlicensed providers. The applicants claim that this creates a situation in which individual clients need to pay for services out-of-pocket. They argued that licensure would allow for the identification of, and possibly additional funding for, the services of those who have the most specialized training in the area of problem gambling, namely, compulsive gambling counselors. [1]
   - Some of those with concerns about the proposal stated that there is no information to indicate a need for licensure for this group, and that the current certification process is quite appropriate for gambling counselors. Representatives of the Marriage and Family Therapy and Social Work communities argued that Licensed Mental Health Practitioners (LMHPs) already possess the qualifications to provide gambling counselor services safely and effectively and that there is no need to create yet another licensed profession to deal with these types of problems. [2]

2. **Would the proposal create new sources of harm to the public that would cancel out any benefits from it?**

   - Concerns were expressed about possible restrictions on some current providers of gambling counselor services if the proposal were to pass. Applicant representatives responded that there nothing to indicate any negative impact on currently available services. They indicated that licensure would result in the grandfathering of the thirty-two people currently certified in the profession in Nebraska. Furthermore, all other licensed providers in other mental health fields would be exempted from the terms of the proposal. The exception would be groups such as masters level psychologists, e.g., who currently are not licensed as a profession in Nebraska. However, individual masters level psychologists would be eligible for exemption if they were to become licensed as LMHPs. When asked whether or not there are currently providers who would not be eligible to become members of licensed professional groups, or who would not be eligible for grandfathering, applicant representatives responded that they did not have any solid information indicating that there are such persons. [3]
   - Opponents to the proposal expressed concern that it does not clarify whether collaboration with, or supervision by, other mental health professionals would be required under at least some circumstances. They felt that such a requirement is vital for this profession given their inability to diagnose a client's overall mental health condition. [4]
   - Those with concerns about the proposal stated that the seventy-two hour educational program and the two hundred hour training requirements do not represent an adequate amount of training and education for providers to serve their clients safely and effectively. They stated that adequate public protection would require the education and

---

[1] The Minutes of the September 11, 2008 Meeting of the Committee

[2] The Minutes of the October 2, 2008 Meeting of the Committee

[3] The Minutes of the September 11, 2008 Meeting of the Committee

[4] Testimony dated October 20, 2008 from Debra Anderson, MSW, PhD, Secretary of NASW-NE Chapter; distributed at the Public Hearing on October 29, 2008

training to safely and effectively diagnose and treat the problems of gambling clients, but that the members of the current gambling counselor profession do not possess the ability to perform a differential diagnosis of a client's mental health condition. [5]

- Additionally, opponents stated that the didactic preparation being proposed is not adequate for the proposed scope of practice. They said that there is no core curriculum in the gambling counselors' didactic coursework, and there seems to be no assurance that specific training in basic theories and clinical treatment methods are being provided to those who undergo training as gambling counselors. [8]
- The applicants acknowledged that educational requirements will need to be upgraded to ensure public protection. They agreed in principle to review these requirements pursuant to the development of an appropriate training regimen for licensure status. The applicant group indicated that they are considering modifying their licensure concept so as to provide for a graduated-tiered approach to upgrading training requirements wherein those who possess little or no formal education beyond high school would be required to complete up to 2,000 hours of clinical practicum as part of their requirement for licensure. Other gambling counselors who possess a significant amount of formal education and training in another mental health field could satisfy the licensure requirements by completing the minimum 200 hours of practical experience, for example. [7]
- Supporters of the proposal argued that a balance must be found between the need for adequate education and training and the need to maintain an adequate number of professionals to provide the services. They cautioned that making drastic upgrades in education and training for gambling counselors runs the risk of driving many current providers out of the field entirely. The minimum educational and training requirements for gambling counselor licensure should be made comparable to those for LADCs, while keeping the current seventy-two hour CE standard and the two hundred hours of supervised practicum. [8]
- A supporter of the proposal stated that one of the primary reasons that problem and compulsive gamblers don't seek treatment is because of their inability to pay for the services, which are not typically covered by insurance. [9]

3. Would the creation of this proposed credential provide clear benefits to the public?

- Concern was expressed regarding what benefits, if any, the public would gain from the proposal. Some interested parties commented that the educational and training requirements for the gambling counselor profession are so minimal that the public would not benefit by creating a licensing process for this profession with its own exclusive scope of practice. [10]
- At this time there are no college programs or other institutional educational or training programs available for gambling counselors. There is currently no licensure in this field elsewhere in the United States. [11]

---

[5] Testimony dated October 20, 2008 from Debra Anderson, MSW, PhD, Secretary of NASW-NE Chapter; distributed at the Public Hearing on October 29, 2008

[6] The Testimony of Jeff Stormberg, PhD (Pages 14-15) in the Transcript of the Public Hearing held on October 29, 2008

[7] The Minutes of the October 2, 2008 Meeting of the Committee

[8] The Testimony of Harlan Vogel, LMHP, CCGC, presented by Jerry Bauerkemper (Page 10) in the Transcript of the Public Hearing held on October 29, 2008

[9] The Testimony of Deb Hammond, CCGC (Page 40) in the Transcript of the Public Hearing held on October 29, 2008

[10] The Minutes of the October 2, 2008 Meeting of the Committee

[11] The Minutes of the September 11, 2008 Meeting of the Committee

- Supporters of the proposal argued that the principal benefit of the proposal is that it could create a better funding situation for the services of gambling counselors and therein offers the promise of improved access to care. [12]
- Some concerned parties commented that because of its narrow focus on one type of mental health problem, the applicant group does not constitute a health profession per se, and is more like a subgroup within a larger profession or field of professional services. They stated that in their view, gambling counseling is a field with too narrow of a focus to justify being licensed. [13]
- Supporters of the proposal presented the viewpoint that gambling counseling is a valid field that requires additional education and training beyond that offered by the training programs of currently licensed mental health professions. Gambling counseling is the only field that has a professional focus on the area of gambling addiction, and the only one which has developed an expertise in assessing and treating this particular health problem. Approving licensure would be a step in the direction of recognizing that this is a unique field of knowledge that incorporates a public health model of mental health and a recovery model like that of substance abuse counseling. [14]
- Concern was expressed about the ability of the proposal to benefit residents of rural areas of Nebraska given the difficulties LADCs have experienced in these areas in finding appropriate supervision for their licensure candidates. It is likely that gambling counselors are going to face similar problems in these areas. [15]

4. **Are there more cost-effective means of dealing with the shortcomings of the current situation than licensing gambling counselors?**

- Regarding cost-effectiveness, opponents to the proposal questioned whether it is sensible to create a licensure process for thirty-two people or a regulatory board for such a licensure process. Also, skepticism was expressed about the accuracy of the argument that third-party payment would be more likely under the terms of the proposal. Comment was made that there is reason to doubt that such funding would be available for these kinds of services given the current financial climate. [16] Applicant representatives responded that licensure should be passed so that in the eventuality that such funding becomes available the profession would then be in a better position to access such funds. [17]
- Some of those with concerns about the proposal commented that keeping the current certification credential is a viable option for this profession, and that no evidence or compelling argument has been presented to indicate a need for, or a benefit from, going from certification to licensure. Supporters of the proposal argued that licensure would improve access to care, clarify the scope of practice, and provide for effective discipline for those who provide gambling counselor services. [18]

---

[12] The Testimony of Harlan Vogel, LMHP, CCGC, presented by Jerry Bauerkemper (Page 11) in the Transcript of the Public Hearing held on October 29, 2008

[13] The Minutes of the October 2, 2008 Meeting of the Committee

[14] The Testimony of Janet Johnson, CCGC (Page 48) in the Transcript of the Public Hearing held on October 29, 2008

[15] The Minutes of the September 11, 2008 Meeting of the Committee

[16] The Minutes of the September 11, 2008 Meeting of the Committee

[17] The Minutes of the September 11, 2008 Meeting of the Committee

[18] The Minutes of the October 2, 2008 Meeting of the Committee

The following arguments pertinent to cost-effectiveness were made by LMHP representatives during the review process:

a. The educational level of the profession is too limited to effectively protect the public from harm. They expressed concern about persons who possess no more than a high school education being involved in counseling vulnerable people. They also stated that there is no information to indicate that CGC training programs are accredited or that the examination process used has been validated.
b. The inability of gambling counselors to perform a differential diagnosis of a client's condition creates concerns about other possible mental health conditions that might be masked by the symptoms of compulsive gambling. Those gambling counselors who do not possess advanced education and training would not be able to deal with such cases, or might engage them in inappropriate treatment.
c. The therapeutic regimen utilized by gambling counselors seems to be limited to one treatment modality, namely, the twelve-step treatment plan. Licensed professions typically use a wide range of treatment options and approaches depending on their client's specific problems.
d. The focus of gambling counseling is too narrow, and the health problems that they deal with are too limited to justify the creation of a separate licensed profession. What gambling counselors do is not sufficiently unique to justify the creation of a separate licensed profession with all the costs of administration that this might incur. [19]

Supporters of the proposal countered these arguments on cost-effectiveness by making the following arguments:

a. Criticism of gambling counselor education and training should be tempered by the need to balance access, cost, and availability of services with the need for a minimum level of competency. Supporters of the proposal noted that many gambling counselors also possess degrees in other areas of mental health, and accordingly are not without a broad-based educational background. [20] Preparation to be a gambling counselor requires additional education and training above and beyond what can be learned in other mental health programs. [21] There are currently no college-level courses offered that are focused on the area of gambling problems or in the treatment of gambling addiction. Academically based mental health professions seem to overlook this ever-increasing mental health problem in our society. [22]
b. Pertinent to the ability to diagnose a client's condition, gambling counselors are aware of their limitations, and they frequently refer cases to other mental health professionals. [23]

---

[19] The Testimony of Jeff Stormberg, PhD (Pages 14-15) in the Transcript of the Public Hearing held on October 29, 2008
[20] The Testimony of Harlan Vogel, LMHP, CCGC, presented by Jerry Bauerkemper (Page 10) in the Transcript of the Public Hearing held on October 29, 2008
[21] The Testimony of Janet Johnson, CCGC (Page 48) in the Transcript of the Public Hearing held on October 29, 2008
[22] The Testimony of Harlan Vogel, LMHP, CCGC, presented by Jerry Bauerkemper (Pages 7-8) in the Transcript of the Public Hearing held on October 29, 2008
[23] The Minutes of the October 2, 2008 Meeting of the Committee

c. Concerning treatment modality issues, gambling counselors do not limit themselves to any one modality. These practitioners come from a wide variety of educational and training backgrounds from which a wide variety of treatment approaches are taught. [24]

d. Critics of the gambling counselor proposal seem to focus on the shortcomings of gambling counselor education and training rather than on trying to cooperate to find a way to increase awareness of gambling addiction problems, and finding ways to improve access to services. [25]

---

[24] The Minutes of the October 2, 2008 Meeting of the Committee

[25] The Testimony of Harlan Vogel, LMHP, CCGC, presented by Jerry Bauerkemper (Page 9) in the Transcript of the Public Hearing held on October 29, 2008

COMMITTEE RECOMMENDATIONS

The Compulsive Gambling Counselors' Technical Review Committee formulated preliminary recommendations during their October 2, 2008 committee meeting. During the December 12, 2008 meeting, the committee members reviewed the testimony provided at the Public Hearing and made their final recommendations on the Gambling Counselors' proposal. They discussed and then applied the statutory criteria of the Regulation of Health Professions Act under Nebraska Revised Statutes, Section 38-6221. These four criteria and the committee recommendations are described below. When taken together, these four actions comprise the final recommendation on the entire proposal. The proposal must be supported on all four criteria for it to be positively recommended by the committee.

Criterion one states:

Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument.

Kelli Cummins-Brown moved and Curtis Bonebright seconded that the proposal satisfies the first criterion.

Voting aye were Bonebright, Cummins-Brown, Lewis, McNeese, Rochford and Sullivan. Dr. Discoe abstained from voting. There were no nay votes. The motion carried.

By this vote, the committee members recommended that the current unregulated situation of the compulsive gambling counselors' profession is a potential source of harm to the public.

The committee members agreed that there is a need to improve access to quality care for those persons who suffer from gambling problems or gambling addiction. Increasing awareness within the mental health community of the seriousness of these mental health issues is also very important. They noted that other professional groups such as Licensed Mental Health Practitioners (LMHPs) do not seem to have a commitment towards acquiring the specialized education and training necessary to address the needs of those afflicted with gambling problems and gambling addiction.

Criterion two states:

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.

Chrisella Lewis moved and Janet Rochford seconded that the proposal satisfies the second criterion.

Voting aye were Bonebright, Cummins-Brown, Lewis, McNeese, Rochford and Sullivan. Dr. Discoe abstained from voting. There were no nay votes. The motion carried.

Some committee members expressed concerns about the inability of gambling counselors to diagnose the mental health condition of their clients. These committee members stated that co-occurring disorders are common among counseling clients and that counselors need to be aware of those disorders and be prepared to deal with them. In addressing this concern, these committee members stated that there is a need to scrutinize the proposed scope of practice to ensure that it does not exceed the education and training provided for gambling counselors. They also expressed support for the idea of upgrading gambling counselor education and training along the lines of Licensed Alcohol and Drug Counselors as a means of addressing the shortcomings of gambling counselor education and training.

Criterion three states:

The public needs, and can reasonably be expected to benefit from, assurance of initial and continuing professional ability by the state.

Curtis Bonebright moved and Chrisella Lewis seconded that the proposal satisfies the third criterion.

Voting aye were Bonebright, Cummins-Brown, Lewis, McNeese, Rochford and Sullivan. Dr. Discoe abstained from voting. There were no nay votes. The motion carried.

The committee members agreed that improved access to care would be the most important benefit of the proposal.

Criterion four states:

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

Rick McNeese moved and Janet Rochford seconded that the proposal satisfies the fourth criterion.

Voting aye were Bonebright, Cummins-Brown, Lewis, McNeese, Rochford and Sullivan. Dr. Discoe abstained from voting. There were no nay votes. The motion carried.

The committee members could see no better way of addressing the need to improve access to gambling counselor services than the applicants' proposal.

By virtue of these actions taken on the four criteria, the committee members recommended approval of the proposal.

Ancillary Recommendations

The following ancillary recommendations were discussed and approved by the technical review committee members during their December 12, 2008 meeting:

1. Kelli Cummins-Brown moved and Curtis Bonebright seconded that the licensure concept be modified to include provisional licensure, using the current LADC provisional licensure requirements as a model.

   Voting aye were Bonebright, Cummins-Brown, Discoe, Lewis, McNeese, Rochford and Sullivan. There were no nay votes or abstentions. The motion carried.

2. Curtis Bonebright moved and Chrisella Lewis seconded that strong consideration be given to raising education and training requirements as recently developed by the GAP program as the basis for provisional licensure.

   Voting aye were Bonebright, Cummins-Brown, Discoe, Lewis, McNeese, Rochford and Sullivan. There were no nay votes or abstentions. The motion carried.

3. Curtis Bonebright moved and Chrisella Lewis seconded that full licensure include the educational and training requirements of provisional licensure plus practicum hours and a formal exam.

   Voting aye were Bonebright, Cummins-Brown, Discoe, Lewis, McNeese, Rochford and Sullivan. There were no nay votes or abstentions. The motion carried.

4. Rick McNeese moved and Kelli Cummins-Brown seconded that a specific scope of practice be determined so as to ensure that it is consistent with the proposed education and training requirements of this profession.

   Voting aye were Bonebright, Cummins-Brown, Discoe, Lewis, McNeese, Rochford and Sullivan. There were no nay votes or abstentions. The motion carried.

OVERVIEW OF COMMITTEE PROCEEDINGS

- The committee members met for the first time on August 21, 2008 for orientation to the review process and initial discussion regarding the proposal.
- On September 11, 2008, the committee discussed the applicants' proposal and generated questions and issues that they wanted to discuss at the next meeting.
- The committee members met on October 2, 2008 to continue discussion on the proposal. They also formulated their preliminary recommendations on the proposal.
- October 29, 2008 was the Public Hearing regarding the proposal.
- On December 12, 2008, the committee met to finalize their recommendations on the proposal.
- The January 7, 2009 meeting was held via teleconference and in person, and the committee finalized their report and adopted it as the embodiment of their recommendations on the proposal.