

Health and Human Services Committee
LB 90
January 23, 2015

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Division of Public Health
Department of Health and Human Services

Good afternoon Senator Campbell and members of the Health and Human Services Committee. My name is Dr. Joseph Acierno (J-O-S-E-P-H - A-C-I-E-R-N-O). I am the Chief Medical Officer and Director of the Division of Public Health in the Nebraska Department of Health and Human Services. I am also acting CEO of the agency. I am testifying today on behalf of the Department on LB 90.

LB 90 proposes changes regarding provisions for initiating a directed review under the Nebraska Regulation of Health Professions Act and to repeal the original sections. The Department of Health and Human Services has reviewed LB90 and provides the following information about the Nebraska Credentialing Review Program:

Purpose of the Nebraska Credentialing Review Program:

The Nebraska Credentialing Review program is prescribed by LB 407 (1985), the Nebraska Regulation of Health Professions Act (Revised 1988, 1993, 2012), now codified as Neb. Rev. Stat. §§ 71-6201 - 71-6230. The program is advisory to the Legislature, and action by that body is required before an occupation can be credentialed.

The purpose of the Nebraska Credentialing Review Program is to establish health-related guidelines for the regulation of health professions which are either currently not regulated, or if regulated, seek to change their scope of practice.

Process for initiating credentialing reviews:

To initiate a credentialing review, an applicant group must submit a letter of intent to the Director of the Division of Public Health. The purpose of the letter of intent is to assist agency staff in determining whether the applicant group is eligible for review under the terms of the Nebraska Regulation of Health Professions Act.

Technical Review Committee:

Once it has been determined that a credentialing review will be conducted on a given application, a technical review committee is established. The technical review committee begins a series of meetings including a public hearing to perform a critical review of each proposal in terms of the statutory criteria contained in Neb. Rev. Stat. § 71-6221 (see

attachment A).

Review of Proposals by the Board of Health:

Once the technical review committee has finalized its report, the Board of Health formulates its recommendations after studying the report of the technical review committee and the report of the Board's Credentialing Review Committee. The reports of the technical review committee, the Board of Health, and supporting documentation is sent to the Director for review.

Review of Proposals by the Director of the Division of Public Health:

The Director of Public Health is required to prepare a report on each proposal. The Director's report provides the Legislature with reviews that are at least partially based upon an administrative analysis of credentialing proposals. The report reflects the cumulative effect of multiple proposals and the effect of a proposal on current regulatory administrative systems. The Director is required to use the statutory criteria in order to formulate recommendations on proposals.

Process for initiating directed reviews:

The current practice for initiating a directed review is that the Director of Public Health and the Chairperson of the Health and Human Services Committee of the Legislature consult with each other to determine if a review is needed. The current process provides for a collaborative approach where the Chairperson and Director are able to have a conversation from the outset of the potential impact of such proposals on Public Health, which is beneficial.

A directed review differs from other types of credentialing reviews in the following ways:

- 1) There is neither an applicant group nor a proposal. In a non-directed review, there is a clearly identified applicant group that develops a proposal for review.
- 2) The Technical Review Committee functions as a task force in that its role is to develop an idea or proposal for the other review bodies to review.
- 3) In a directed review, the criteria are part of the informational context within which the technical review committee formulates its proposal. Subsequent review bodies take action on the criteria by voting on them during the time when recommendations are being formulated.
- 4) The State Board of Health and the Director of Public Health review proposals that are created by technical review committees under this process. Their work proceeds in the same manner as in other types of reviews.

If LB90 were to pass it would create an additional avenue to initiate a directed review without consultation and collaboration with the Director of Public Health.

Attachment: A

CRITERIA AND EVIDENCE FOR THE CREDENTIALING REVIEW PROGRAM

Purpose: The statutory criteria contained in Neb. Rev. Stat. § 71-6221 were established as a means of evaluating proposals submitted for credentialing review. The purpose of such evaluation is to determine objectively whether there is, in fact, a need to protect the public by regulating the practice in question or by making changes in regulatory practices that are already in place. A technical committee in a directed review needs to be aware that it is functioning like an applicant group in that it is creating an idea or ideas in the area of credentialing to which other review bodies will be applying statutory criteria in order to evaluate those ideas.

**Evaluation of Proposals for Initial Credentialing of the Members
of Unregulated Health Professionals Currently Allowed to Engage in Full Practice**

1. **Criterion 1** – Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public.
2. **Criterion 2** – Regulation of the health 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.
3. **Criterion 3** – The public needs assurance from the state of initial and continuing professional ability.
4. **Criterion 4** – The public cannot be protected by a more effective alternative.

**Evaluation of Proposals for Initial Credentialing
of Health Professionals Prohibited from Full Practice**

1. **Criterion 1** – Absence of a separate regulated profession creates a situation of harm or danger to the health, safety, or welfare of the public.
2. **Criterion 2** – Creation of a separate regulated profession would not create a significant new danger to the health, safety, or welfare of the public.
3. **Criterion 3** – Creation of a separate regulated profession would benefit the health, safety, or welfare of the public.
4. **Criterion 4** – The public cannot be protected by a more effective alternative.

Evaluation of Proposals for Change in Scope of Practice

1. **Criterion 1** – The health, safety, and welfare of the public are inadequately addressed by the present scope of practice or limitations on the scope of practice.
2. **Criterion 2** – Enactment of the proposed change in scope of practice would benefit the health, safety or welfare of the public.
3. **Criterion 3** – The proposed change in scope of practice does not create a significant new danger to the health, safety or welfare of the public.
4. **Criterion 4** – The current education and training for the health profession adequately prepares practitioners to perform the new skill or service.
5. **Criterion 5** – There are appropriate post-professional programs and competence assessment measures available to assure that the practitioner is competent to perform the new skill or service in a safe manner.
6. **Criterion 6** – 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.