

FINAL Report of Preliminary Findings and Recommendations

By the
Technical Review Committee for the
Review of an Application on
Athletic Trainers

To the
Nebraska State Board of Health,
the Director of Health,
and the Nebraska Legislature

September 28, 1995

Introduction

The Nebraska Credentialing Review Program, established by the Nebraska Regulation of Health Professions Act in 1985, 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 seeking credentialing or a change in scope of practice to submit an application for review to the State Department of Health. The Director of the Department will then appoint an appropriate technical review committee to review the application and make recommendations as to whether or not the application 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.

These recommendations take the form of a written report which is submitted to the Board of Health and the Director of Health along with any other materials pertinent to the issues under review that the Board and the Director might request. The Board of Health and the Director of Health formulate their own independent reports on applications. The reports of the committee, the Board, and the Director are forwarded to the Legislature to assist senators in their review of the credentialing issues.

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Summary of the Applicants Proposal

The applicant group, the Nebraska State Athletic Trainers Association, proposed to make the following statutory changes:

- 1) That the requirement that athletic trainers may work only for educational institutions, professional athletic organizations, or amateur athletic organizations be removed.
- 2) That a provision be added to item 2 in section 71-1,240 which would state that an athletic trainer can practice "... in conjunction with a licensed physical therapist in the non-traditional setting: ..." (Page 5, Question 4, part B, the Applicants' Proposal) Currently the statute states that a trainer may provide certain modalities only, "...under guidelines established with a referring licensed physician;..." (Page 4, Question 3, part 2, the Applicants' Proposal)
- 3) That a new definition of athletic injuries replace the current definition which states, "Athletic injuries shall mean those injuries which are incurred by individuals through participation in sports or recreation." The proposed definition is:
"Athletic injuries refers to injury sustained by a person as a result of the individual's participation in exercises, sports, games, or recreational activities requiring physical strength, agility, flexibility, range of motion, speed, or stamina."
- 4) That a temporary licensure provision be created so that an individual with the intent of obtaining a permanent license but who has not yet completed all of the requirements for licensure may provide the services of a licensed athletic trainer until such time that the individual in question has completed all of the requirements for a permanent license. A temporary license would expire in ninety-days, and could not be renewed.
- 5) That a temporary exemption from licensure for visiting athletic

trainers be created so that practitioners from other jurisdictions who accompany teams or organizations may practice as athletic trainers for such teams or organizations while visiting in Nebraska. *** (All of this information comes from the Applicants' Proposal submitted to the committee by the applicant group on June 20, 1995) ***

The applicant group made the following amendments to the proposal at the fourth meeting of the technical committee:

- 1) Section 71-1,239 of the current athletic trainer statute which the original proposal had deleted was restored, and is as follows:
"A licensed athletic trainer may practice athletic training in some or all respects only for educational institutions, professional athletic organizations, [or]* amateur athletic organizations, or health care facilities." ([....]* item deleted)
- 2) Section 71-1,240 as worded in the original proposal was reworded as follows:
"Athletic trainers shall be authorized to use the following physical modalities in the treatment of athletic injuries as defined in 71-1,240, subsection (2), under [guidelines]* protocols and procedures established with a referring licensed physician in the traditional setting; [and/or in conjunction with a licensed physical therapist in the non-traditional setting:]* or, under protocols and procedures established with a referring licensed physician and in collaboration with a licensed physical therapist or other member of the allied health care professions in the non-traditional setting:"
([....]* items that were deleted)
- 3) Proposed new section 71-1,1244 subsection (1)(b) pertinent to temporary licensure was amended to read as follows:
"The temporary license shall be valid for a period of ninety (90) days from the date the individual begins employment, or until

permanent licensure is obtained, not to exceed 90 days;"

All of these amendments were approved by the committee members which means that the amended proposal will be the proposal of record for the remainder of the review.

(See pages 28, 29, and 30 of this report for a complete discussion of the proceedings of the meeting wherein these amendments were adopted.)

Summary of Committee Conclusions and Recommendations

The members of the Athletic Trainers Technical Review Committee recommended against the amended version of a proposal from the Nebraska State Athletic Trainer Association to change their scope of practice as described on pages four, five, and six of this report.

Committee member Kent Dunovan, P.T., moved, and committee member Jolene Ward seconded that the proposal **does not satisfy** the first criterion. Voting aye were Ward, Williams, Rochford, Walline, and Dunovan. Voting nay was Maly. Chairperson Foote abstained from voting. The motion passed which means that the committee members determined that the proposal does not satisfy the first criterion. By this vote the committee members had determined that they were not going to recommend approval of the proposal, since all four criteria must be satisfied in order for a proposal to receive approval.

Committee member Jeanne Williams moved, and committee member Linda Walline, R.N., seconded that the proposal **does satisfy** the second criterion. Voting aye were Maly and Williams. Voting nay were Dunovan, Walline, Rochford, and Ward. Chairperson Foote abstained from voting. The motion did not pass which means that the committee members determined that the proposal does not satisfy the second criterion.

Committee member Terry Maly, P.T, A.T.C., moved, and committee member Linda Walline, R.N., seconded that the proposal **does satisfy** the third criterion. Voting aye were Maly, Walline, and Williams. Voting nay were Ward and Dunovan. Janet Rochford and chairperson Janel Foote abstained. The motion passed which means that the committee members determined that the proposal does satisfy the third criterion.

Committee member Jeanne Williams moved, and committee member Linda Walline, R.N., seconded that the proposal **does not satisfy** the fourth criterion. Voting aye were Dunovan, Walline, Rochford, Williams, and Ward. Voting nay was Maly. Chairperson Foote abstained from voting. The motion passed which means that the committee members determined that the proposal

does not satisfy the fourth criterion.

By these four votes the committee members had decided not to recommend approval of the applicants' proposal.

The committee members also made several comments regarding their recommendations and these are as follows:

One committee member stated that athletic trainers need more education in the area of geriatrics and therapeutics before they can be involved in treating injuries of members of the general public, and that this is one of the principal messages that the committee members were attempting to communicate in their recommendations. Most of the committee members indicated their agreement with this comment.

One committee member stated that there is a need to find a way for all athletes in secondary schools to get access to the services of an athletic trainer, and that the fact that the committee did not recommend in favor of the applicants' proposal should not be taken to mean that the committee members are not aware of this need. The committee members indicated their agreement with this comment.

(See pages 28, 29 and 30 in this report for a complete discussion of the development of the committee's recommendations)

Discussion on Issues Raised by the Proposal

1.) What are athletic trainers and what makes them unique as a health profession?

The committee members requested additional information on what makes athletic trainers unique from other health care professionals.

The committee members asked the applicants to discuss the differences between their profession and other professions as such exercise physiologists.

The committee members asked whether athletic trainers get referrals from nurses.

The committee members wanted to know the circumstances under which an athletic trainer currently provides care to an injured athlete. (All of these questions were generated at the second meeting, July 6, 1995)

Information Provided by the Applicant Group

The applicants stated in their proposal that the profession of athletic training involves five major areas which are:

- 1) Prevention of athletic injuries;
- 2) Recognition, evaluation, and immediate care of athletic injuries;
- 3) Rehabilitation and reconditioning of athletic injuries;
- 4) Health care administration; and,
- 5) Professional development and responsibility.

The applicants informed the committee members that the statute as currently worded restricts the practice of athletic trainers to educational institutions and athletic organizations. The applicants also stated that athletic trainers function in cooperation with medical personnel, administrators, coaches, and family members to develop efficient and responsive delivery of services those who need it.

The modalities that athletic trainers may use include the application of

electrical stimulation, ultrasound, infrared light, ultraviolet light, and the use of medical diathermy. The proposal states that the application of heat, cold, air, water, or exercise shall not be restricted by their statute.

(All of the above information under "Information Provided by the Applicant Group," is in the Applicants' Proposal, Pages 4, 6, and 7)

At the second meeting, Terry Maly, A.T.C., P.T., the representative of the applicant group on the committee, responded to committee questions regarding the differences between their profession and exercise physiologists by stating that, unlike athletic trainers, exercise physiologists are not trained to provide rehabilitative care, and that they work with healthy people to improve their overall physical condition. (The minutes of the second meeting, July 6, 1995)

At the second meeting, committee member Maly responded to committee questions regarding whether athletic trainers take referrals from nurses by stating that nurses typically refer patients to physicians, not to trainers or physical therapists. (The minutes of the second meeting, July 6, 1995)

At the second meeting, committee member Maly responded to questions about the circumstances under which athletic trainers would first encounter an injured athlete by stating that, typically, athletic trainers first encounter injured athletes at the scene of the injury. Committee member Maly stated that athletic trainers screen and evaluate the injured athlete and then refer them to a physician for treatment. However, committee member Maly stated that in emergency situations, the athletic trainer treats the injured athlete at the scene of the injury. (The minutes of the second meeting, July 6, 1995)

At the public hearing, Steve Brace, A.T., President of the Nebraska State Athletic Trainer Association, stated that the focus on the identification, treatment, and prevention of athletic injuries is what makes his profession unique among health care professions. (The Transcript of the Public Hearing held on August 3, 1995, Pages 14 and 15)

Comments by Other Interested Parties

At the second meeting, committee member Kent Dunovan, P.T., stated that the education and experience of athletic trainers prepares them very well for dealing with emergencies "on the field," but that they are not as well prepared to deal with injuries to members of the general public that would occur outside of these contexts. (The minutes of the second meeting, July 6, 1995)

2.) Is there harm to the public inherent in the current practice situation? Specifically, what is the impact of the current restrictions on athletic trainer scope of practice on access to the services of athletic trainers?

The committee asked for additional evidence than what was provided in the proposal that the public is being harmed as a result of the statutory requirement that athletic trainers may practice only for educational institutions, professional athletic organizations, or amateur athletic organizations. The committee members asked whether there is any evidence indicating that insurance premiums for schools without contracts with organizations that provide athletic trainer services are higher than for those which have such contracts.

The committee members also wanted to know the extent to which remote rural areas of the state are getting access to athletic trainer services. (All of these questions were generated at the second meeting, July 6, 1995)

Applicant Group Comments

At the second meeting, Steve Brace, A.T., stated that the current situation prevents persons who are not affiliated with either educational institutions or amateur or professional athletic organizations from getting access to the services of an athletic trainer. (The minutes of the second meeting, July 6, 1995)

The applicant group stated in their proposal that the general public

needs to have access to an athletic trainer if they are injured while participating in an athletic activity, but that the current restrictions on scope of practice do not allow athletic trainers to serve members of the general public. The current restrictions are enforced by requiring a contract as evidence of scope of practice limitations, and this is the method used by the Bureau of Examining Boards to determine compliance with the provisions of the scope of practice. The applicants stated that potential for harm to the public exists under these restrictions because in many situations where members of the public engage in athletic activities those who are responsible for providing care to an injured person are often not adequately trained to deal with injuries. (The Applicants' Proposal, Page 10)

At the public hearing, Steve Ronspies, A.T., stated that the current restrictions on athletic trainer scope of practice hamper out-reach programs, and that it makes no sense to restrict the profession to certain kinds of settings, adding that if athletic trainers are able to provide services to athletes in a traditional setting, then they should also be able to provide their services to the general public in a non-traditional setting. (The Transcript of the Public Hearing held on August 3, 1995, Pages 11 and 12)

At the public hearing, Steve Brace, A.T., stated that the current restrictions on scope of practice make it impossible for his profession to get third-party reimbursement. Mr. Brace indicated that third-party payors will not reimburse for the services of a profession that does not serve the general public. (The Transcript of the Public Hearing held on August 3, 1995, Page 17)

Mr. Brace stated that the lack of third-party reimbursement for the services of athletic trainers hampers their ability to get access to student athletes in schools that do not have a contract with an organization that provides athletic trainer services. Mr. Brace stated that the proposal would facilitate a process by which athletic trainers in Nebraska could eventually be reimbursed for their services, and thereby increase their availability to students in these schools as well as lower the cost of these services. (The Transcript of the Public Hearing held on August 3, 1995, Pages 32, 33, and 34)

One testifier for the applicant group stated that some athletic trainers have left Nebraska because of the current restrictions on scope of practice. (The Transcript of the Public Hearing held on August 3, 1995, Pages 56 and 57)

Comments by Other Interested Parties

At the second meeting, committee member Kent Dunovan, P.T., stated that the current practice situation of athletic trainers enables them to get access to those persons who need their services, and that he sees no need to make changes in the law governing how these services are provided. (The minutes of the second meeting, July 6, 1995)

At the second meeting, committee member Dunovan responded to the applicants comment that the current practice situation of athletic trainers limits their access to athletes in schools without a contract for athletic trainer services by stating that the proposed change in scope of practice would not address these access problems. Committee member Dunovan stated that the reason that athletes in some remote rural areas of the state do not have access to the services of an athletic trainer is that such schools often cannot afford to contract for such services, not because of the provisions of the current scope of practice for athletic trainers. Mr. Dunovan added that it would be very difficult to provide athletic trainer services to athletes attending these schools because there would be no clearly-defined means by which these services could be reimbursed, and that the applicants' proposal would do nothing to change these realities. (The minutes of the second meeting, July 6, 1995)

At the public hearing, Wayne Stuberg, P.T., President of the Nebraska Chapter of the American Physical Therapy Association, stated that no convincing information had been provided to demonstrate that any harm has occurred to the public as a result of the current restrictions on athletic trainer scope of practice. (The Transcript of the Public Hearing held on August 3, 1995, Pages 68 and 69)

3.) Would the proposal create significant new harm to the public health and welfare?

The committee members wanted additional information on the education and clinical experience of athletic trainers. The committee members also wanted more information pertinent to the education and training of members of the profession in the area of human growth and development in general, and in the area of geriatrics in particular.

The committee members also asked the applicants to clarify the meaning of the expressions "guidelines" and "in conjunction with" in the following wording in the proposed scope: (the expressions have been highlighted and placed in parentheses)

"Athletic trainers shall be authorized to use the following physical modalities in the treatment of athletic injuries . . . , under (guidelines) established with a referring licensed physician; and/or (in conjunction with) a licensed physical therapist in the non-traditional setting: . . ." (Page 5, question 4)

The committee members requested that the applicants elaborate upon the following comment contained in their proposal:

"There may exist the potential for misuse of the athletic trainer in the non-traditional setting. Circumstances may arise in which an athletic trainer could render services to patients other than those from the general athletic population." (Page 11, question 24)

The committee members indicated that they would like to have more information on the historical background of the regulations pertinent to athletic trainers. (Documentation on the legislative history of the current statute was provided to the committee members prior to the public hearing)

The committee members wanted to know more about how oversight of athletic trainers would be accomplished in non-traditional situations.

The committee members also wanted to know what it takes to complete an athletic trainer program, and how much of this education and training is directed toward the treatment of athletic injuries.

The committee members also wanted information on physical therapy education and experience for the purpose of comparison and contrast with athletic trainer education and experience. (All of these questions were generated at the second meeting, July 6, 1995)

Applicant Group Comments

At the second meeting, Steve Brace, A.T., responded to committee concerns about the monitoring of athletic trainers in non-traditional situations by stating that under the terms of the proposal, athletic trainers would be working "in conjunction with" physical therapists when working outside of traditional work situations. Steve Ronspies, A.T., who works as an athletic trainer for the Omaha Racers professional basketball team, added that in non-traditional situations, the athletic trainer would also be working with the injured person's physician in order to provide assurance of appropriate care. Committee member Kent Dunovan, P.T., expressed concern that some injured persons in these contexts might not have a physician. Mr. Brace then stated that athletic trainers would not attempt to treat persons with complex health care problems, but rather would defer to other practitioners. Committee member Dunovan responded that if the proposed scope of practice were approved, there would be circumstances under which an athletic trainer could not avoid treating persons with complex health care problems. (The minutes of the second meeting, July 6, 1995)

At the public hearing, Steve Brace, A.T., responded to questions regarding the meaning of the expressions "guidelines" and "in conjunction with" in the proposal by stating that the expression "in conjunction with" means that in non-traditional settings, athletic trainers and physical therapists would confer to determine which practitioners should provide care for an injured person. Mr. Brace stated that the expression "guidelines" refers to either a written or a verbal protocol from a physician pertinent to care being provided in a traditional setting. However, Mr. Brace indicated that athletic trainers would likely operate under the guidelines of a

physician in non-traditional situations as well. (The Transcript of the Public Hearing held on August 3, 1995, Pages 20, 21, and 22)

At the public hearing, committee member Kent Dunovan, P.T., asked the applicants if physical therapists would be partners or supervisors of athletic trainers under the proposed scope of practice. Mr. Brace responded that under the terms of the proposal physical therapists would be partners of, not supervisors of, athletic trainers. Committee member Dunovan then asked if this relationship is like a partnership, what would prevent an athletic trainer from practicing without a physical therapist present? Mr. Brace responded that the NATA would not endorse athletic trainers practicing in this manner. Committee member Dunovan responded that NATA guidelines are not law, and that unless the law prohibited this type of practice, it could occur. Committee member Dunovan went on to state that if athletic trainers were to receive third-party reimbursement for their services, there is the possibility that athletic trainers could establish their own, independent, sports medicine clinics and see patients "off the street." Mr. Brace responded by stating that in such a scenerio, reimbursement for an athletic trainer's services could not occur without a physician directly supervising the work done by the athletic trainer. Committee member Dunovan responded that if the proposal were passed as currently worded, there would be nothing to prevent an athletic trainer from practicing independently, and that if it can happen, eventually, it will happen. Mr. Brace responded by stating that, "I don't believe that there's an insurance company in America that would reimburse without a physician's referral," and added that it is not the intention of the applicant group to establish independent practice for athletic trainers. (The Transcript of the Public Hearing held on August 3, 1995, Pages 22, 23, 24, and 25)

One applicant testifier informed the committee members that any athletic trainer who attempted to practice independently would be in violation of the profession's national certification standards. (The Transcript of the Public Hearing held on August 3, 1995, Page 47)

At the second meeting, Steve Brace, A.T., responded to questions

regarding athletic trainer education in general, and clinical preparation in particular by stating that athletic trainer programs involve twenty-five to forty credit-hours which is approximately 800 clock-hours, and that the internship nearly doubles the total number of clock-hours. Mr. Brace stated that there are two specific courses that deal with pathologies and the treatment modalities that trainers are permitted to utilize. (The minutes of the second meeting, July 6, 1995)

The applicants acknowledged in their proposal that under the terms of the proposal there may be individuals who have received credentialing as a professional but who do not have the experience or education to provide services to the general population, and that there is some potential for new harm in this situation. The applicants also stated that under the terms of the proposal there is potential for misuse of athletic trainers in non-traditional settings. (The Applicants' Proposal, Page 11)

At the public hearing, Steve Brace, A.T., responded to questions about the education and training of athletic trainers by stating that athletic trainers take human growth and development, gross anatomy, and that adolescent care is also covered. Mr. Brace added that geriatric care is covered in courses dealing with adult athletes, but that there is no specific course work in this area per se. Committee member Dunovan asked Mr. Brace what education and clinical experience athletic trainers have to deal with the pathologies of non-traditional athletes. Mr. Brace responded that athletic trainer education includes work in these areas, but that there is no specific course devoted to this area per se. Mr. Brace added that athletic trainers receive internships that focus on these subjects in a high school setting as well as in sports medicine clinics. (The Transcript of the Public Hearing held on August 3, 1995, Pages 18, 19, and 20)

Comments by Other Interested Parties

At the second meeting, committee member Kent Dunovan, P.T., stated that the education and experience of athletic trainers prepares them very well for

dealing with emergencies "on the field," but that they are not as well prepared to deal with injuries to members of the general public that would occur outside of these contexts. Committee member Dunovan expressed the concern that there would be less assurance that an injured person who is not affiliated with a contracting institution would receive prompt access to a physician. Committee member Dunovan added that members of the general public are also more likely to have complex health problems than are athletes in public schools, and that athletic trainers are not very well prepared to deal with such situations. (The minutes of the second meeting, July 6, 1995)

At the second meeting, committee member Kent Dunovan, P.T., responded to questions regarding physical therapy education and experience by stating that physical therapists have a masters-level education and that the clinical training they receive provides additional preparation. Steve Brace, A.T., then commented that athletic trainer education is typically 1500 clock-hours, but that many trainers have exceeded this amount. Mr. Brace informed the committee members that he has approximately 2700 clock-hours, for example. (The minutes of the second meeting, July 6, 1995)

At the second meeting, committee member Kent Dunovan, P.T., responded to applicant comments on education and training in their profession by stating that two courses in therapeutic-related subjects cannot provide sufficient background to enable an athletic trainer to treat the injuries of persons who may have complex health problems. Steve Brace, A.T., responded that the primary concern of the applicant group is improving access to athletic trainer services in public schools. Steve Ronspies, A.T., commented that under the terms of the proposal, athletic trainers would not be providing any services that they are not already providing, and that athletic trainers have no intention of treating the injuries of persons who have complex health problems. Mr. Ronspies went on to state that the proposal could increase the number of athletic trainers available to provide emergency care. (The minutes of the second meeting, July 6, 1995)

At the public hearing, Charles Pallesen, J.D., testifying on behalf of

the Nebraska Medical Association, stated that he is concerned that the current proposal does not provide for adequate collaboration, supervision, and direction pertinent to non-traditional situations. This testifier responded to comments by some applicant testifiers that national certification standards of the profession provide assurance that the public would be protected by stating that these standards could not provide such assurances unless they were specifically included in the statute regulating the profession. This testifier indicated that there is a need for the proposal to be modified to better address these concerns. (The Transcript of the Public Hearing held on August 3, 1995, Pages 64 and 65)

At the public hearing, Wayne Stuberg, P.T., President of the Nebraska Chapter of the American Physical Therapy Association, stated that his group also feels that there is potential for new harm to the public health and welfare inherent in the proposal because it allows athletic trainers to provide services to the general public without providing clearly delineated oversight for such services. Mr. Stuberg stated that language that the applicants propose to add to their statute requiring that athletic trainers work "in conjunction with" physical therapists in non-traditional settings does not provide adequate guidelines as to how this requirement would actually work. Mr. Stuberg added that the term "non-traditional" is not clearly defined in the applicants' proposal. (The Transcript of the Public Hearing held on August 3, 1995, Pages 71 and 72)

At the public hearing, Ron Hruska, P.T., stated that regulation of athletic trainers under the proposal would be impossible because of the lack of clarity in the definition of such terms as "athlete," "patient," and "client." Mr. Hruska added that in some states the definition of "athlete" does not include the general public. (The Transcript of the Public Hearing, held on August 3, 1995, Pages 78 and 79)

During the discussion at the second meeting on questions pertinent to the ability of athletic trainers to deal with persons who have complex health problems and geriatric issues, Roland LaRue, A.T., a member of the Nebraska

Board of Athletic Trainers, stated that athletic trainers need more preparation in the area of geriatric care than they currently receive in order to treat the general public. Steve Brace responded by reminding the committee members that athletic trainers would always be working in conjunction with a physical therapist when serving the general public. (The minutes of the second meeting, July 6, 1995)

4.) Would the proposal provide significant benefit to the public pertinent to the problems identified by the applicant group?

The committee members wanted to know how the proposed change in scope of practice would improve access to the services of athletic trainers to schools in remote rural areas of Nebraska.

The committee members noted that data provided in the application indicated that currently most athletic trainers practice in the urban areas of Nebraska, and asked whether the proposed change in scope of practice would encourage more of these currently urban practitioners to move to rural areas of the state. The committee members also asked whether the proposed change in scope of practice would encourage practitioners from other states to locate in rural Nebraska.

The committee members asked whether the proposed change in scope of practice would encourage third-party payors to reimburse for the services of athletic trainers.

The committee members asked the applicants whether school nurses are qualified to provide the kind of care typically provided by athletic trainers.

The committee members wanted to know how the applicants would provide those aspects of their care pertinent to injury prevention in situations where they are dealing with the general public.

(All of these questions were generated at the second meeting of the committee, July 6, 1995)

Applicant Group Comments

The applicants stated in their proposal that eliminating the requirement that athletic trainers work only for educational institutions or athletic organizations would enable the general public to get access to the full range of athletic trainer services. The applicants also stated that the proposal would indirectly increase the availability of athletic trainers to secondary schools that currently do not employ an athletic trainer or contract with organizations that provide such services. (The Applicants' Proposal, Pages 13 and 14)

At the public hearing, Steve Brace, A.T., stated that the proposed change in scope of practice for his profession could indirectly improve access to athletic trainer services in schools in remote rural areas of the state by allowing for a more versatile use of the skills of athletic trainers by clinics and hospitals that provide these services. Mr. Brace stated that the proposal would facilitate the establishment of more outreach programs in rural areas which would mean more job opportunities for athletic trainers in these areas which in turn might encourage more athletic trainers to locate in rural areas of the state. (The Transcript of the Public Hearing held on August 3, 1995, Pages 15, 16, and 17)

At the second meeting, Steve Brace, A.T., responded to questions regarding school nurses qualifications to provide the same kind of care that athletic trainers provide by stating that nurses can provide this care, but that injury prevention is a dimension of athletic trainer services that is unique, and added that this is something that athletic trainers could also provide for the general public if the proposed change in scope of practice were approved. (The minutes of the second meeting, July 6, 1995)

At the second meeting, committee member Terry Maly, A.T. C., P.T., responded to questions regarding third-party reimbursent for athletic trainer services by stating that athletic trainers do not get reimbursed directly, but that sometimes the services of athletic trainers can get reimbursed when they are billed as "physical therapy." Steve Ronspies, A.T., added that this is

one reason why the proposal requires trainers to work in conjunction with physical therapists. Committee member Kent Dunovan, P.T., responded that he is not aware of a situation in which the services of an athletic trainer were reimbursed as "physical therapy," and added that he did not believe that such reimbursement procedures would occur even if the proposal were passed. Mr. Ronspies acknowledged that there is no assurance that athletic trainer services could be reimbursed in this manner, but that the applicant group feels that athletic trainers should be given the opportunity to serve the general public regardless of questions regarding reimbursement. Mr. Brace stated that athletic trainers are seeking third-party reimbursement for their services, but that the current limitations on scope of practice make this difficult to accomplish. (The minutes of the second meeting, July 6, 1995)

At the second meeting Steve Ronspies, A.T., informed the committee members that in Texas, a state that has a scope of practice for athletic trainers that is similar to that outlined in the proposal, athletic trainer services are sometimes billed as "physical therapy" for purposes of reimbursement. (The minutes of the second meeting, July 6, 1995)

At the public hearing, Steve Brace, A.T., stated that the proposal will improve the prospect for third-party reimbursement of athletic trainer services, adding that without the proposed changes, this type of reimbursement for the services of athletic trainers will not occur. Mr. Brace stated that such reimbursement would significantly improve access to athletic trainer services for both the general public and school-based athletes. (The Transcript of the Public Hearing held on August 3, 1995, Page 17)

One testifier for the applicant group at the public hearing informed the committee members that UN-K has an outreach program to benefit local schools, and that UN-K athletic trainers provide limited services at no cost to athletes in these schools which illustrates the potential of the proposal to improve access to services in rural Nebraska. (The Transcript of the Public Hearing held on August 3, 1995, Page 62)

At the second meeting, Steve Brace, A.T., responded to questions

regarding how trainers could benefit the general public in the area of injury prevention by stating that athletic trainers could educate members of the public about ways of preventing injuries "after-the-fact" as part of the rehabilitation for an injured person, and thereby play a significant role in providing follow-up care. (The minutes of the second meeting, July 6, 1995)

At the second meeting, Steve Ronspies, A.T., commented that the proposal would make athletic trainers available to persons taking aerobics classes where currently only unlicensed persons provide care. (The minutes of the second meeting, July 6, 1995)

Comments by Other Interested Parties

At the second meeting, committee member Kent Dunovan, P.T., responded to applicant group assertions that the proposal would establish access to athletic trainer services for the general public by stating that there is currently no reimbursement mechanism in place to pay for such services, and added that few persons would be able to pay for these services "out-of-pocket." (The minutes of the second meeting, July 6, 1995)

At the public hearing, committee member Dunovan responded to applicant group assertions that the proposal would indirectly improve access to athletic trainer services to schools in rural areas by creating more jobs for athletic trainers by stating that the availability of athletic trainers in rural areas is not the only factor in determining access to their services in schools. Committee member Dunovan stated that the critical factor is economic, and that if schools in a given area of Nebraska cannot afford to contract for these services, the services will not be provided in those schools. (The Transcript of the Public Hearing, held on August 3, 1995, Page 33)

At the public hearing, Ron Hruska, P.T., stated that the current proposal would not improve access to the services of athletic trainers to schools in remote rural areas of Nebraska, and indicated that the applicants had not provided any information to demonstrate that the current scope of practice for athletic trainers is the source of limitations on access to their

care in schools in rural Nebraska. Mr. Hruska added that utilization of athletic trainers, regardless of whether it is in a rural or urban setting, will not improve unless outcome measures pertinent to fiscal impact are addressed, and the need for specific athletic trainer services on the part of Nebraskans are identified. (The Transcript of the Public Hearing held on August 3, 1995, Page 77)

Mr. Hruska responded to applicant group assertions that their proposed change in scope of practice would improve their chances for third-party reimbursement by stating that third-party payors base decisions on reimbursement for the services of health professionals upon, solid, scientific research, and not on whether a given profession has a certain scope of practice, and that reimbursement for athletic trainers can come only through demonstrative research and outcome studies pertinent to the services they are trained to provide. (The Transcript of the Public Hearing held on August 3, 1995, Pages 72 and 77)

Committee member Linda Walline, R.N., stated that reimbursement issues should not be an overriding concern because there might be persons willing to pay "out-of-pocket" for the services of an athletic trainer. (The minutes of the second meeting, July 6, 1995)

At the second meeting, committee member Kent Dunovan, P.T., stated that the proposal does not adequately address issues pertinent to the "continuum of care." Committee member Dunovan stated that clinics where athletic trainers and physical therapists work together provide the best continuum of care. Steve Brace, A.T., responded to Kent Dunovan by stating that he did not agree with his views on the continuum of care, and went on to say that athletic trainers provide a vital entry into the health care system, and that their role needs to be expanded so that they can provide more follow-up care on their own without always having to send patients on to physical therapists for such care. Mr. Brace expressed the view that the best continuum of care is provided when it is possible for a patient to stay with the practitioner that they saw originally, rather than being referred on to someone else. Mr. Brace

went on to state that athletic trainers are fully capable of following guidelines pertinent to follow-up care. (The minutes of the second meeting, July 6, 1995)

5.) What is the experience of the states with licensure statutes for athletic trainers that are similar to that proposed by the applicant group?

The committee members requested information on any athletic trainer statutes in states in which athletic trainers possess a scope of practice similar to the one being proposed by the applicant group pertinent to how well these regulations have worked. (This question was generated at the second meeting of the committee, July 6, 1995)

At the second meeting, Steve Ronspies, A.T., informed the committee members that Texas has a scope of practice for athletic trainers that is similar to that outlined in the proposal, and that athletic trainer services in Texas are sometimes billed as "physical therapy" for purposes of reimbursement. (The minutes of the second meeting, July 6, 1995)

At the public hearing, Steve Brace, A.T., informed the committee members that the state of Missouri has a similar scope of practice for athletic trainers to that being proposed in the application, and that, in Missouri, athletic trainers receive third-party reimbursement for their services. (The Transcript of the Public Hearing held on August 3, 1995, Page 39)

6.) Is there a need for temporary licensure in the athletic trainer statute? Is there potential for abuse from such a concept?

The committee members requested that the subject of temporary licensure described in the proposal be discussed relative to other licensed health professions in Nebraska. (This question was generated at the second meeting of the committee, July 6, 1995)

The committee members were provided with documentation on the temporary licensure provisions of other regulated health professions in Nebraska such as

medical doctors, physician assistants, nurses, physical therapists, and pharmacists.

At the public hearing, Steve Brace, A.T., informed the committee members that athletic trainers who move to Nebraska from other states who have completed the requirements for national certification would be given a temporary license to practice that would expire in three months, or when they complete all requirements for licensure in Nebraska if that occurs before the expiration of the three month temporary licensure period. There would be no provision for renewal of the temporary license if a practitioner fails to complete all requirements for licensure in that three-month period. (The Transcript of the Public Hearing held on August 3, 1995, Page 39, 40, and 41)

Committee Conclusions and Recommendations

The committee members met on August 28, 1995, at Central Community College, in Grand Island, to formulate their recommendations on the proposal. All information in this section of the report was generated at the fourth meeting.

The committee members took action on each of the four criteria of the credentialing review statute that are intended for scope of practice proposals. The first criterion states,

The present scope of practice or limitations on the scope of practice create a situation of harm or danger to 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.

Before voting on this criterion, the committee members discussed the issue of harm to the public raised by the applicant's proposal. Committee member Linda Walline, R.N., stated that the review has revealed that athletes in schools without a contract for athletic trainer services do not have access to the services of athletic trainers, and that this is a problem. Kent Dunovan, P.T., responded to this comment by stating that the access problem in question is significant, but that this problem does not stem from the statutory restrictions on athletic trainer scope of practice described in the applicants' proposal. Committee member Dunovan stated that the access problem in question stems from the financial situation of many schools in Nebraska wherein they cannot afford to contract for athletic trainer services. Committee member Dunovan added that nothing in the applicants' proposal would do anything about this situation.

Steve Ronspies, A.T., responded to committee member Dunovan's comments on the ability of the proposal to improve access to athletic trainers on the part of athletes in schools that cannot afford a contract by stating that the proposal would facilitate the process by which athletic trainers could get

third-party reimbursement and that this in turn would facilitate the provision of services to athletes in these schools.

Later in the discussion on this criterion committee member Dunovan stated that the current scope of practice is not a source of harm to the general public, and that the statutory provisions which do not allow athletic trainers to treat members of the general public are necessary for public protection.

Committee member Kent Dunovan, P.T., moved, and committee member Jolene Ward seconded that the proposal does not satisfy the first criterion. Voting aye were Ward, Williams, Rochford, Walline, and Dunovan. Voting nay was Maly. Chairperson Foote abstained from voting. The motion passed which means that the committee members determined that the proposal does not satisfy the first criterion. By this vote the committee members had determined that they were not going to recommend approval of the proposal, since all four criteria must be satisfied in order for a proposal to receive approval.

The second criterion states,

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

Before voting on this criterion the committee members discussed the issues raised by the criterion. Committee member Janet Rochford expressed the concern that the proposal would provide no oversight for athletic trainer services to the general public. Committee member Kent Dunovan, P.T., commented that the proposal makes no provision for physician oversight in the provision of athletic trainer services to the general public, and that the provision requiring athletic trainers to work "in conjunction with" a physical therapist in such "non-traditional" situations is too ambiguous to provide meaningful protection for the public.

Steve Ronspies, A.T., indicated that national certification standards that all athletic trainers must satisfy would provide protection for the public in these "non-traditional" situations. Committee member Jolene Ward

then stated that national certification standards would not be mandatory, and that only a system of oversight specifically delineated in statute could provide adequate protection for the public.

Committee member Linda Walline, R.N., also expressed concern about the absence of oversight, and added that athletic trainers do not have sufficient background in pathology or therapeutics to deal independently with members of the public who might have complex health problems.

Committee member Janet Rochford asked the applicants whether the proposal would enable athletic trainers to establish their own free-standing clinics. Committee member Terry Maly, P.T., A.T.C., stated that this would not occur because such clinics could not get third-party reimbursement. Committee member Jolene Ward responded to committee member Maly by stating that the comments of one applicant testifier pertinent to his having examined high school athletes at the request of their parents, apparently without referral from a physician, and according to him, without receiving compensation for such work, suggested to committee member Ward that free-standing clinics composed of athletic trainers is not something that is an impossibility. Steve Ronspies, A.T., responded that free-standing clinics are not the goal of his group, but that if such clinics were established, the proposal would require that physical therapists be involved.

Steve Ronspies, A.T., and committee member Maly, the applicant group representatives at the meeting then proposed to make the following amendments to the proposal in response to comments by the committee members:

- 1) Section 71-1,239 of the current athletic trainer statute which the original proposal had deleted was restored by this amendment, and is now worded as follows:
"A licensed athletic trainer may practice athletic training in some or all respects only for educational institutions, professional athletic organizations, [or]* amateur athletic organizations, or health care facilities. ([....])* item deleted)
- 2) Section 71-1,240 as worded in the original proposal was reworded

as follows:

"Athletic trainers shall be authorized to use the following physical modalities in the treatment of athletic injuries as defined in 71-1,240, subsection (2), under [guidelines]* protocols and procedures established with a referring, licensed physician in the traditional setting; [and/or in conjunction with a licensed physical therapist in the non-traditional setting:]* or, under protocols and procedures established with a referring, licensed physician, and in collaboration with a licensed physical therapist or other members of the allied health care professions in the non-traditional setting:"

([....])* items that were deleted)

- 3) Proposed new section 71-1,1244 subsection (1)(b) pertinent to temporary licensure was amended to read as follows:

"The temporary license shall be valid for a period of ninety (90) days from the date that the individual begins employment, or until permanent licensure is obtained, not to exceed 90 days;"

All of these amendments were approved by the committee members which means that the amended proposal will be the proposal of record for the remainder of the review.

Committee member Kent Dunovan, P.T., commented on these amendments by stating that while the amendments are an improvement over the original proposal, they still do not adequately mitigate the proposal's potential for creating significant new harm to the public health and welfare. Committee member Dunovan stated that the term "collaboration" that replaced the expression "in conjunction with" in the amended proposal is no more clear than the term it replaces. Mr. Dunovan went on to state that the amendments in question do not clarify who under the terms of the proposal an athletic trainer can treat, and added that the definitions of "athlete" and "athletic injury" in the applicants' proposal are too vague to provide adequate guidance for determining whether a given person should or should not see an athletic

trainer.

Steve Ronspies, A.T., responded to committee member Dunovan by stating that in the real world athletic trainers and other members of the health care team would work together to determine which patients an athletic trainer should be involved in treating.

Committee member Dunovan reiterated his concern that there is a need for a way to keep athletic trainers from treating members of the general public who have complex health care problems, and that the proposal does not provide a way to do this.

Committee member Jeanne Williams commented that under the amended proposal, no athletic trainer could treat a member of the general public unless the patient in question was referred to them by a physician. Committee member Dunovan responded that no system of referral can ensure public protection when those practitioners providing services lack sufficient education to deal persons who might have complex health problems.

Steve Ronspies, A.T., responded that athletic trainers do have extensive clinical background in the area of the "non-traditional" athlete, adding that many athletic trainers receive as much as five hundred hours of clinical work in this area. Committee member Linda Walline, R.N., then stated that clinical work is not enough, and that a strong theoretical background is at least as important as the clinical work in preparing a practitioner to treat the general public, adding that the review of the applicants' proposal has made it clear that athletic trainers do not have sufficient background in this aspect of care. Committee member Walline stated that athletic trainers need more education in the area of geriatrics. Committee member Dunovan then stated that it is best to have a situation wherein care is provided to the general public by persons who have the education and training to assess the entire health status of a patient, rather than by someone who only treats injuries per se.

Committee member Jeanne Williams moved, and committee member Linda Walline, R.N., seconded that the proposal **does satisfy** the second criterion.

Voting aye were Maly and Williams. Voting nay were Dunovan, Walline, Rochford, and Ward. Chairperson Foote abstained from voting. The motion did not pass which means that the committee members determined that the proposal does not satisfy the second criterion.

The third criterion states,

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

Before the voting on this criterion occurred, committee member Terry Maly, P.T., A.T.C., stated that the proposal would bring cost savings for the public because of improved access to athletic trainer services. Committee member Linda Walline, R.N., responded to this comment by stating that she was not convinced that improved access would necessarily result in cost savings, and that this might actually increase the cost of services.

Committee member Terry Maly, P.T., A.T.C., moved, and committee member Linda Walline, R.N., seconded that the proposal **does satisfy** the third criterion. Voting aye were Maly, Walline, and Williams. Voting nay were Ward and Dunovan. Janet Rochford and chairperson Janel Foote abstained. The motion passed which means that the committee members determined that the proposal does satisfy the third criterion.

The fourth criterion states,

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

Before the voting on this criterion occurred, committee member Kent Dunovan, P.T., reiterated that the applicants' proposal would do nothing to alleviate the problem of access to athletic trainer services in schools that do not contract for such services since this problem stems from the financial situation of such schools, rather than anything stemming from the current scope of practice of athletic trainers. Steve Ronspies, A.T., responded that approval of the proposal would facilitate a solution to such access problems by making it easier to get third-party reimbursement for athletic trainer services, and by encouraging more athletic trainers to stay in Nebraska rather

than leave to practice in other states.

Committee member Jeanne Williams moved, and committee member Linda Walline, R.N., seconded that the proposal does not satisfy the fourth criterion. Voting aye were Dunovan, Walline, Rochford, Williams, and Ward. Voting nay was Maly. Chairperson Foote abstained from voting. The motion passed which means that the committee members determined that the proposal does not satisfy the fourth criterion.

By these four votes the committee members had decided not to recommend approval of the applicants' proposal.

Chairperson Foote asked the committee members whether or not they wished to make any additional recommendations or comments on any of the issues raised by the review. Janet Rochford responded by stating to the applicants that athletic trainers need more education in the area of geriatrics in particular and therapeutics in general in order to treat the injuries of members of the general public safely and effectively, and that this is the principal message that the committee members were attempting to communicate in their recommendations. Most of the committee members indicated their agreement with this comment.

Kent Dunovan, P.T., commented that there is a need to find a way for all athletes in secondary schools to get access to the services of athletic trainers, and the fact that the committee did not recommend in favor of the applicants' proposal should not be taken to mean that the committee members are not aware of this need. The committee members indicated their agreement with this comment.

Overview of Committee Proceedings

The committee members met for the first time on June 20, 1995, in the State Health Department, in the State Office Building, in Lincoln. At this meeting, the committee members received an orientation to the duties and responsibilities of committee members under the credentialing review program. Each committee member also received their own copy of the applicants' proposal at this meeting.

The committee members held their second meeting on July 6, 1995, at Central Community College, in Grand Island. At this meeting, the committee members discussed the applicants' proposal, and generated a list of questions and issues that they wanted interested parties to discuss at the public hearing.

The committee members held their third meeting on August 3, 1995, at the State Capitol, in Lincoln. This meeting was the public hearing on the proposal during which both proponents and opponents were given one-and-one-half hours to present their testimony. A public comment period followed during which additional comments were received. Following the presentations, the committee members held a brief business meeting.

The committee members met for their fourth meeting on August 28, 1995, at Central Community College, in Grand Island. At this meeting, the committee members formulated their recommendations on the applicants' proposal by taking action on each of the four criteria of the credentialing review statute.

The last meeting of the committee was held on September 28, 1995. This meeting was a videoconference in which committee members and members of the public gathered at four separate locations in Nebraska, linked by satellite. These locations were at the State Office Buildings in Scottsbluff and Lincoln with additional sites at the public library in Kearney, and at the Community College in Grand Island. At this meeting, the committee members made corrections in the draft of the report, and then adopted the corrected draft as their official report embodying their recommendations on the proposal.

A List of Sources Submitted to the Committee
Members During the Review

Documents received prior to the public hearing:

The Applicants' Proposal

Brochures:

"The Certified Athletic Trainer" (by NATA)

Video tapes:

"The Role of the Athletic Trainer in Health Care" (by NATA)

Legislative Documents:

LB 355 (1985/1986)

Amendments to LB 355

Transcripts: floor debate and Committee hearing

State Statutes (pertinent to temporary licensure):

Medicine and Surgery

Physician Assistants

Physical Therapy

Pharmacy

Nursing

Articles:

"Hot Weather is Dangerous," in Omaha World Herald, Thursday, July 13, 1995, (from the applicant group).

"NATA: A Vision for the Future," NATA Annual Report, 91-92 (from physical therapy)

"Legislative Funding of A.T. Positions in Public Secondary Schools," Barton Buxton, et.al. (from the applicant group)

The Transcript of the Public Hearing

Written testimony:

Opponents: Ron Hruska, P.T.

Proponents: Brian Arrends, Director, Physical Medicine, Clarkson Hospital,
Omaha
David Bacon, M.D.
William Bruening, D.C.
Gary Byrne, J.D., Kelley, Scritsmier, and Byrne, P.C.
Peter Cimino, M.D., Omaha Orthopedic Clinic and Sports Medicine
Phil Davidson, Rehabvisions, Omaha
Steven Hagan, M.D., Orthopedic Surgery and Fractures, Omaha
Duane Haith, Coordinator, Physical Education, Omaha Public
Schools
Dr. William Kenagy, Principal, Kearney High School
Joel Larmore, P.T., President and CEO, Rehabvisions, Omaha
Dennis Long
Kathy Leavitt, P.T., Director, Rehabilitation, Box Butte General
Hospital, Alliance

Proponents: Holly McCoy, Athletic Director, Mercy High School, Omaha
(cont.) Michael Morrison, M.D., Omaha Orthopedic Clinic & Sports
Medicine, P.C.
Press release dated December, 1994 (from NATA)
Dean Ott, Administrator, Kearney Bone and Joint Clinic
William Singer, M.D.
John Yost, M.D.

Petitions:

From Nebraska Coaches Association (268 signatures)