



THE DIRECTOR'S REPORT ON THE PROPOSAL TO CREATE A CERTIFICATION UNDER LMHP FOR ART THERAPISTS

Date: May 06, 2020

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

From: Gary J. Anthon, MD
Chief Medical Officer
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Department of Health and Human Services

Gary Anthon, MD
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Introduction

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

Summary of the Art Therapy Proposal

The Nebraska Art Therapy Licensure Coalition is proposing to amend the Uniform Credentialing Act and the Mental Health Practice Act to provide for licensing of qualified art therapists as Licensed Mental Health Practitioners and Licensed Independent Mental Health Practitioners with a credential as a Certified Art Therapist to be administered by the Board of Mental Health Practice. The resulting credential would be placed within the framework of LMHP under the LMHP umbrella board.

The applicants stated that they are not asking for independent licensure, rather, they are asking for the creation of a certification for Art Therapists within the LMHP licensure category. Under this concept anyone who seeks to provide Art Therapy services would be required to qualify as an LMHP. However, licensed Psychologists and Psychiatrists would be exempted from the terms of the proposal. Under the terms of this proposal Art Therapy providers would be assured of having all requisite skills and abilities to diagnose and treat the mental health conditions of their patients. This proposal would also require the expansion of the LMHP Board to include an Art Therapist.

The full text of the applicants' proposal can be found under the Art Therapy subject area on the credentialing review program link at:
<http://dhhs.ne.gov/Licensure/Pages/Credentialing-Review.aspx>

Summary of Technical Committee and Board of Health Recommendations

The technical review committee members recommended in favor of the art therapy proposal. The Board of Health recommended in favor of the art therapy proposal. I concur with these recommendations, and my comments regarding my reasons for supporting the proposal follow, below.

The Director's Recommendations on the Proposal

Discussion on the four statutory criteria as they relate to the Art Therapy proposal:

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

Under the current practice situation of art therapy in Nebraska anyone may set up a practice as an art therapist and begin providing services to the public without having to satisfy any educational or training requirements to provide this kind of therapy. The applicants have documented that harm not only can occur as a result of this unregulated practice situation but that it actually has occurred as a result of this situation.

The applicants' proposal would address this situation by requiring that those who seek to provide art therapy services satisfy all current Nebraska requirements for licensure as an LMHP before being allowed to provide this therapy. Additionally, no practitioner would be allowed to use the protected title of "Art Therapist" without satisfying both the LMHP requirement and satisfying additional requirements associated with becoming certified as an Art Therapist. However, a practitioner would not have to qualify to use the protected title in order to provide the services. LMHP status alone would allow a provider to provide art therapy services.

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

During the review applicant representatives clarified that all members of their art therapy group already satisfy the requirements for licensure as LMHPs, or, are already licensed as LMHPs. Additionally, as already indicated above, the proposal would clarify that anyone already licensed as an LMHP would automatically be defined as qualified to provide the services associated with art therapy. During the review the applicants also clarified that anyone licensed as a Psychologist would be exempted from the terms of the proposal. Given these clarifications and exemptions the applicants have shown that their proposal would be unlikely to impose new hardships or to diminish the supply of qualified providers of art therapy services.

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

During the review the applicants presented information that documented that harm has occurred as a result of art therapy being provided by unqualified providers. This information supports their contention that there is a need for assurance of initial and continuing professional competency vis-à-vis art therapy services.

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

The only way to address the shortcomings of the current practice situation of art therapy services in Nebraska is by passing the applicants' proposal.