



# STATE OF NEBRASKA

ROBERT KERREY • GOVERNOR • GREGG F. WRIGHT, M.D., M.Ed. • DIRECTOR

## MEMORANDUM

TO: Senator Donald Wesely

FROM: Gregg F. Wright, M.D., M.Ed. *Gregg Wright*  
Director of Health

SUBJECT: Recommendations Regarding a Change in Scope of Practice of  
Chiropractors

DATE: January 3, 1986

### Introduction

In preparing my recommendations on the physical therapists proposal, I have attempted to conform to both the letter and the spirit of LB 407. My principal concern has been to try to assure that there has been a reasonably uniform interpretation and application of the philosophy, criteria, and procedures required by the act.

The language of LB 407 is quite specific in identifying the three criteria that must be satisfied by any group seeking professional credentialing. Briefly stated, these are that there must be clear evidence of harm to the public resulting from the lack of regulation; that the public must need and benefit from an assurance of minimum standards of competence; and that no method other than regulation by the state provides for cost-effective protection of the public.

However, the statute gives little guidance as to what criteria should apply to a proposal for a change in the scope of practice of a profession or occupation currently regulated by the state. Each technical committee has had to determine an appropriate way to apply the intent of LB 407 in these circumstances. In general, the committee attempted to focus its attention on the question of harm to the public resulting from the current situation (i.e., the perceived problems that gave rise to the proposal for a change in the scope of practice) and of the potential harm or benefit to the public resulting from enactment of the change. The committee was, in effect, comparing a real and a hypothesized environment and endeavoring to determine which of those provided the best balance of public protection and cost-effective regulation.

I have attempted to identify each of these elements in the committee report, and I have scrutinized the application, and the evidence and

testimony submitted by all parties. In making my recommendations, therefore, I have reviewed the same material that was used by the technical committee. But I have also been guided by the intent of LB 407 to provide a uniform application of a broad philosophy of regulation to all applications. I take this philosophy as one that views state regulation as a means of last resort. This philosophy finds the necessity for regulation to rest almost exclusively in the need to protect the health, safety, and welfare of the public from the prospect of widespread and significant harm. It seeks to balance this necessity against the very real economic and social costs of regulation, such as restriction of competition, potential increases in the cost of health care, limitation of the availability and accessibility of services, and increases in the size and cost of state government.

In this light, I submit the following comments and recommendations regarding the proposal for credentialing of the physical therapists.

#### Recommendations

The physical therapists' proposal sought to limit the scope of practice of chiropractors so as to prevent them from using the terms "chiropractic physiotherapy" or "chiropractic physical therapy" in defining their scope of practice. Recognizing the complexity of this issue, the committee recommended that the Boards of Examiners of Physical Therapy and Chiropractic meet jointly to develop definitions of chiropractic physiotherapy, and physical therapy in general, and that the boards agree to publicize and enforce these definitions in both advertising and practice. Therefore, the committee, contingent upon the adoption of these recommendations, recommended the proposal for disapproval. I concur with the committee's recommendation.

#### Discussion

After reviewing the information provided by both opponents and proponents, I believe that in point of fact these two groups are reasonably close together on issues pertinent to the use of modalities. The critical difference between them revolves around the use of the terms "physical therapy" and "physiotherapy" by chiropractors in their advertisements. What makes this issue difficult to resolve is the fact that these terms are not easily defined. The technical committee did not feel that it had the expertise to adequately define these terms, an expertise that would extend both to the technical procedures described and to the public perception of these procedures and the terms employed. I, therefore, support the committee's recommendation, and pledge the full cooperation

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of the Department of Health to the interested parties in their endeavor to come to a consensus of the meaning and applicability of these terms.

GFW/blw

cc: Senator Harry B. Chronister  
Senator Timothy J. Hall  
Senator Dan Lynch  
Senator Richard Peterson  
Senator Jacklyn J. Smith  
Senator Ron Withem

