

THE REPORT OF THE MEMBERS OF THE STATE BOARD OF HEALTH
ON THE PROPOSAL FOR A CHANGE IN SCOPE OF PRACTICE BY DENTAL HYGIENISTS
(September 26, 2005)

The Recommendations of the Members of the Board's Credentialing Review Committee on the Proposal

Comments by the Chairperson of the Dental Hygienists' Technical Review Committee

Chairperson Edward Discoe, M.D., began the meeting by describing the credentialing review process and the format of the five meetings of the Dental Hygienists' Technical Review Committee. Dr. Discoe stated that the applicant group educated the committee members regarding the condition of dental care nationally, the disparity in dental services between rural and urban areas of Nebraska, and the disparity in access to care between the middle class and the poor in our state. Dr. Discoe stated that the proposal described the significance of preventive care in heading off serious periodontal disease. Dr. Discoe commented that the review was controversial, with the dental hygienists arguing that current statutory restrictions on their practice pertinent to oversight by dentists hampers their ability to respond to the disparities noted above. Dr. Discoe stated that representatives of the Nebraska Dental Association felt that the proposal was not the appropriate way to improve quality of care in Nebraska, and identified alternative ways of addressing access to care problems. Dr. Discoe concluded his remarks by stating that the committee members voted against the proposal on each of the four criteria.

Testimony from Interested Parties

Chairperson Discoe asked representatives of the applicant group whether they wished to make comments to the Board members. Jane Broekemeier, R.D.H., the applicant group representative on the committee, came forward to present comments on the issues from the dental hygienists' viewpoint. Ms. Broekemeier commented that the greatest difference between her group and the Dental Association was over the issue of supervision of dental hygiene services pertinent to outreach to underserved populations. Ms. Broekemeier indicated that otherwise the two sides are pretty much in agreement, and that the differences between the two professions on issues have been overstated. Pertinent to opponent concerns about independent practice by dental hygienists, Ms. Broekemeier commented that dental hygienists are ethically obligated to refer patients to dentists for follow-up care in any case. She added that dental hygienists would not stand to make significant dollars under this proposal, and that their motives are entirely selfless in this regard. Regarding issues of reduced supervision, Ms. Broekemeier indicated that in states that have had reduced supervision there has been no evidence of harm done from reduced or unsupervised practice. Ms. Broekemeier then showed pictures of children from underserved populations with dental problems, and asked, should we allow this to continue? She noted that these people do not seek care until there is a need to go to the emergency room. Ms. Broekemeier concluded her comments by stating that her group was very disappointed by the outcome of the committee findings, but hopes that the Board of Health members will perceive the issues differently than did the technical committee members and will approve the proposal.

Dr. Wills asked Ms. Broekemeier how this proposal would jibe with the overall work and services provided by dentists. Ms. Broekemeier responded that the proposal would ease the workload of dentists, and dentists would see people that they would not see otherwise, resulting in better outcomes for those patients.

Pertinent to criteria four, Dr. Meeske stated that mandated fluoridation is the best way to address the problems identified. She also commented that the Medicaid system needs to be improved, and that currently practitioners receive only 40 cents on the dollar from Medicaid. Dr. Meeske added that there are underserved areas in our state, and that dentists are doing special things to try to meet these needs.

Dr. Wills asked Dr. Meeske whether her practice is the exception or the rule in Nebraska. Dr. Meeske responded that it is the exception, and added that she subsidizes her hygienists without receiving any pay. Dr. Wills then commented that the risk factor for what dental hygienists do is less than for what dentists do, and given this, asked what the problem was with what they are asking for? Dr. Spry asked whether there are access problems in Nebraska vis-à-vis the services of dentists. Dr. Meeske responded by stating that there are problems with mal-distribution of dentists and a shortage of dentists.

Dr. Westerman then asked the applicant group to comment on the issue of independent practice. Jane Broekemeier responded on behalf of the applicant group that supervision issues and the issue of independent practice are different things, and that this proposal is not about independent practice. Larry Ruth, lobbyist for the Nebraska Dental Association, commented that the proposal in effect does ask for independent practice, and read an excerpt from the statute (Section 72-193-17) to show that the impact of the proposal would be independent practice in the specific contexts defined by the proposal.

Dr. Wills then asked whether dental hygienists would be Medicaid providers under the terms of the proposal. Larry Ruth commented that Medicaid at this point does not approve them as providers, but that approval for dental hygienists to be Medicaid providers is possible under the terms of the proposal.

The Formulation of Committee Recommendations on the Proposal

At this juncture in the review, the Board members indicated that they were ready to begin taking up the four criteria of the review program.

The Board members then took up each of the four criteria, beginning with criterion one, which asks whether there is significant harm or significant potential for harm to the public under the current practice situation of the profession under review. Dr. Wills moved and Dr. Spry seconded that there is harm to the public in the current practice of dental hygiene. Voting aye was Wills. Voting nay were Spry, Discoe, and Westerman. There were no abstentions. The motion did not pass. By this vote the proposal was determined to have failed to satisfy the first criterion. Dr. Discoe commented that he did not feel that there is a risk of harm under the current practice situation, but indicated that dentists should be encouraged to move toward the hygienists' views pertinent to the need for outreach services to underserved populations. Dr. Spry and Dr. Westerman both commented that they did not perceive the current situation as posing harm to the public. Dr. Wills commented that the harm is the shortage of dentists, especially in the western part of the state.

Dr. Spry moved and Dr. Westerman seconded that the proposal does not satisfy criterion two, which states that the proposed change in scope of practice does not create a significant new danger to the health, safety or welfare of the public. Voting aye were Wills, Spry, Westerman, and Discoe. There were no nay votes or abstentions. By this vote the proposal was determined to have failed to satisfy the second criterion. Dr. Discoe expressed concern that this proposal would create a two-tiered standard of care, and that the public would assume that they were receiving total dental care when in fact they would not be.

role the dental hygienist would play in this diagnostic process. Ms. Broekemeier stated that under the terms of the proposal, qualified dental hygienists would apply a special type of brush to a lesion in order to pick up a cell sample from a patient with a suspicious lesion, and then send the cell sample to a laboratory for analysis. Dr. Sandstrom asked Ms. Broekemeier who would interpret the results. Ms. Broekemeier responded that the results would be interpreted by either a dentist or a physician. Dr. Schiefen then commented that in such a situation it would be more advisable for a dental hygienist to refer any suspicious lesions to either a dentist or a physician right away rather than spending valuable time trying to perform biopsies themselves.

Dr. Kent Forney, D.V.M., asked Ms. Broekemeier whether this issue is just another turf war. Ms. Broekemeier responded that it is not about turf, but about finding a way to meet the needs of poor and other underserved populations in our state. Dr. Clint Schafer, D.P.M., asked whether this proposal could open the door for free standing dental hygiene clinics, and thereby, in a defacto manner, create independent practice for dental hygienists. Ms. Broekemeier responded that such a scenario is not the intent of the applicant group, and that the applicants are not trying to use this issue to establish independent practice, or in any way advance themselves economically. Dr. Schafer responded to Ms. Broekemeier's comments by stating that no one provides health care services for free, and that applicant assertions that monetary gain has nothing to do with their proposal are hard to take seriously. Ms. Broekemeier responded by stating that dental hygienists could provide this care for minimum cost, and would do so not on a daily basis, but rather, they would provide this care by working a few days every month. This approach would enable them to continue their current office employment while providing the outreach services as secondary employment.

Dr. Leslie Spry, M.D., commented that the approach that holds the most promise of meeting the needs of underserved populations is one that would utilize community health centers to provide the care in question. Dr. Spry stated that this approach would employ the services of both dentists and dental hygienists in a cooperative effort to address the dental care needs of underserved populations. Dr. Spry then commented that the proposal under review does not clarify referral patterns, and creates uncertainty regarding how follow-up care would occur. Dr. Discoe expressed concern that the proposal would fragment dental care services in Nebraska, and potentially could create a situation wherein there are two standards of care, one for the underserved, and another for the rest of the population.

Dr. Sandstrom asked Ms. Broekemeier what is keeping dental hygienists from providing outreach services under the current practice situation. Ms. Broekemeier responded by stating that the current practice situation requires that the dental hygienists receive the approval of a supervising dentist before they are allowed to provide outreach services to underserved populations, and that this situation usually prevents the dental hygienist from providing outreach services. She commented that dentists typically are reluctant to allow their employees to provide this kind of care because it could adversely impact their income.

There being no additional questions for the applicant group representative, Dr. Schiefen asked if any other interested parties wished to testify on the proposal. Dr. Jessica Meeske, D.D.S., came forward to testify on behalf of the Nebraska Dental Association. Dr. Meeske informed the Board members that her office and employees provide outreach services to underserved populations now, and that this shows that this kind of service can be provided under the current practice situation. Dr. Meeske then identified additional ways that the dental care needs of underserved populations could be met, including mandatory water fluoridation and the "Mission of Mercy" program to be initiated by the Nebraska Dental Association. Other options are incentive programs to attract young dentists to underserved areas to practice, such as loan repayment and loan forgiveness programs. Dr. Meeske also stated that the idea of a grant program to fund outreach services involving teams of cooperating

