DIRECTOR'S REPORT ON THE PROPOSAL TO LICENSE COMPULSIVE GAMBLING COUNSELORS

From: **Joann Schaefer, M.D., Chief Medical Officer**
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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

Date: **August 12, 2009**

Introduction

The Regulation of Health Professions Act provides for an administrative process to review and present to the Nebraska Legislature recommendations regarding change in scope of practice of licensed health care professionals and the establishment of new credentialing for currently unregulated professions. This process (as defined in Neb. Rev. Stat., Section 71-6201, et. seq.) is commonly referred to as a credentialing review. The Department of Health and Human Services Division of Public Health administers the Act. As Director of this Division, I am presenting this report under the authority of this Act.

Description of the Issues Under Review

The applicant group is the Nebraska Compulsive Gambling Certification Advisory Board. The issue under review is whether certified compulsive gambling counselors should be licensed in Nebraska.

Summary of Technical Committee and Board of Health Recommendations

The technical committee members recommended in favor of the proposal. The Board of Health also recommended in favor of the proposal. I am recommending against the proposal, and more detailed comments regarding my recommendations follow.

The Director's Recommendations on the Proposal Using the Four Criteria of the Credentialing Review Statute

Recommendations will be made by using the four criteria of the Credentialing Review Program that pertain to new credentialing proposals. These are contained in the text of Neb. Rev. Stat., Section 71-6201, et. seq., and are as follows:

Criterion one:

Unregulated practice can clearly harm or endanger 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.

To date, no evidence of harm to the public has been submitted. The applicants provided some anecdotal information but nothing substantive to suggest that untrained or unqualified practice is a problem in Nebraska.

Currently, mental health professionals have no formal screening process for patients with gambling related disorders. Licensed mental health providers consider family relationships or other interpersonal relationships, as well as searching for signs of alcohol or drug abuse in their practices. Because gambling addiction is such an emerging field, LMHPs usually do not consider the possibility that gambling disorders might be a component of a person's behavioral problems or even the root cause of those behaviors. The Diagnostic and Statistical Manual (DSM-IV) provides no distinct category of mental health disorder for gambling or gambling-related problems. The manual groups pathological gambling under the diagnosis of impulse disorders, including kleptomania, pyromania, etc. However, information provided during the review process concerning brain wave research on persons addicted to gambling indicated that these brain wave patterns are similar to those of persons suffering from cocaine addiction.

Although a great deal more needs to be learned about gambling disorders, it is clear that this is a serious and growing concern, and there needs to be assurance that those counselors who provide services to clients suffering from these disorders possess the necessary education and training to do so effectively. However, there is no clear evidence of harm at this time. Thus, I find that the applicants' proposal does not satisfy criterion one.

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.

There is nothing in the concept of licensing gambling counselors that would create hardships for the public, diminish the supply of qualified practitioners, or create barriers to service. The standards being proposed are so minimal that the vast majority of currently certified practitioners already satisfy them. There is no information to suggest that the proposal would have any adverse impact on other credentialed mental health providers, since they typically choose not to provide these kinds of services anyway. Additionally, no information was brought forward during the review process to indicate that any non-credentialed providers would be adversely impacted by the proposal, or that such a category of provider even exists. Thus, I find that the applicants' proposal satisfies criterion two.

Criterion three:

The public needs, and can reasonably be expected to benefit from, assurance of initial and continuing professional ability by the State.

The applicants argued that their licensure proposal might result in achieving third-party payment or government grants for the services of gambling counselors. They stated that this would make the practice of their profession more financially attractive, increase availability of their services, and grant easier access to care for clients. However, this argument lacks supporting information, and there is no assurance that licensure would result in the achievement of third-party reimbursement.

In my estimation, concerns about consistency in the area of credentialing of addiction-related mental health services in Nebraska provide more support for the licensing of gambling counselors than do

arguments about third-party reimbursement. If alcohol and drug abuse are considered to be serious enough that Nebraska has created licensure for alcohol and drug abuse counselors, it would be consistent to credential compulsive gambling counselors. I believe that the public would benefit from licensing gambling counselors as it has from licensing licensed alcohol and drug counselors (LADCs). However, as I will discuss below, I feel that there is a better way of approaching the licensure issue than the current proposal. I find that the applicants' proposal satisfies the third criterion.

Criterion four:

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

The fourth criterion requires that in examining a proposal we ask whether or not it would be the best means of addressing the problems identified. I am convinced that there is a more cost-effective approach to the regulation of gambling counselors. Because of this, I find that the applicants' proposal does not satisfy the fourth criterion.

By these actions on the four criteria I hereby recommend against approval of the proposal.

My Proposal

The discussion surrounding this proposal has often touched upon the question of why and how this group differs from LADCs. It is clear that the differences are not so much clinical as they are situational. Drug and alcohol addiction have for many years been recognized as high-profile issues of national import. Much energy has gone into the development of educational and treatment standards and core competencies. Famous persons have acknowledged their own dependency and urged others to go into treatment.

For whatever reasons, the profile of gambling addiction is not so high, even though its impact on lives can be equally devastating. Standards and core competencies have not been developed, nor have curricula been established nationwide. No public champions have emerged. While it may be something of a chicken-and-egg phenomenon, the fact remains that the synergy and momentum that resulted in licensing LADCs are not now present for gambling counselors. It may well be, however, that the situation is ripe for such developments.

Therefore it is my recommendation that the applicant group pursue studies and discussions over the next two years with their colleagues in other fields of behavioral health practice. These should focus on the development of educational models and competencies necessary to support a licensed health profession.

My vision of the outcome of this process is a new proposal to create a new category of licensed practitioners to be known as "Licensed Addiction Counselors" or something similar. This new profession, while recognizing the value of experience, would establish entry-level standards of at least a baccalaureate degree. A common core of coursework would cover general counseling theory and practice, the clinical basis and manifestations of addictive behaviors, and the therapeutic approaches deemed efficacious. Separate coursework and practicums would allow students to choose specialization in drug/alcohol addiction counseling or gambling addiction counseling. Existing LADCs and certified gambling counselors would be grandparented into the new licensure.

Nebraska is on the cutting edge in the emerging field of gambling addiction counseling, and by developing educational and training standards for credentialing of the profession, we can become the standard for similar programs nationally.