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.
Director of Health

SUBJECT: Recommendations Regarding a Change in Scope of Practice of Dentists Administering General Anesthesia

DATE: January 3, 1986

Introduction

In preparing my recommendations on the dental anesthesia 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 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 an intent of LB 407 in these circumstances. In general, the committee attempted to focus its attention on the question on 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 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 a change in scope of dental practice.

Recommendations

In this proposal the Nebraska Dental Association sought a change in scope of practice whereby no dentist licensed in the State of Nebraska should administer parenteral sedation, general anesthesia, or inhalation analgesia in the practice of dentistry until he or she has been issued a permit by the Board of Examiners in Dentistry pursuant to the proposal. This is notable in that the professional organization is in essence recommending a decrease in their own scope of practice. They made this proposal based upon their conviction that the currently unrestricted practice of dentistry using parenteral sedation, general anesthesia, or inhalation analgesia presented unwarranted risks to the public they served.

The technical review committee's primary recommendation was that such a permit be required for dentists administering any of the agents noted. As a secondary recommendation the committee felt that inhalation analgesia should be allowed to be monitored by dental auxiliaries under the indirect supervisor of a dentist. After a review of pertinent information, I concur with the committee's primary recommendation concerning an additional permit for dental accreditation. I disagree with the secondary recommendation concerning dental auxiliaries.

Discussion

I support the committee recommendation concerning the permit requirement for dentists because of the increasing complexity of the procedures associated with dental anesthesia. New technologies and analgesic practices require additional training if the public health and welfare are to be adequately protected. In particular, the

the potential dangers associated with the use of general anesthesia present a solid argument for requiring more specialized training.

I disagree with the secondary recommendation for three reasons. First of all, the term "dental auxiliary" is too broad. This term covers all dental personal except for the dentists themselves. The amendment could therefore be applicable to bookkeepers, secretaries, and receptionists, as well as to dental hygienists and dental assistants. This is clearly not in the public interest. Secondly, there is no justification for extending indirect supervision to any auxiliary other than a dental hygienist. Lastly, regardless of the merits of the amendment, the issues raised in it are not pertinent to this particular proposal. They should be dealt with in the context of other issues relating to the scope of practice of dental hygienists and dental assistants.

GFW/blw

Enclosure

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