DIRECTOR'S REPORT ON THE PROPOSAL TO ALLOW CERTIFIED REGISTERED NURSE ANESTHETISTS (CRNAS) TO UTILIZE FLUOROSCOPY INDEPENDENTLY

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

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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 issue under review is whether or not CRNAs should be allowed to use fluoroscopy as a component of their scope of practice independent of physician oversight.

Summary of Technical Committee and Board of Health Recommendations

The technical committee members recommended in favor of allowing CRNAs to provide fluoroscopic services independently. However, the committee members also recommended that any health care practitioner who provides these services including, but not limited to CRNAs, possess the education and training in fluoroscopy that is necessary to protect patients from harm. The Board of Health also recommended in favor of allowing CRNAs to provide fluoroscopic services independently. The Board also recommended that there be assurance of sufficient education and training to protect patients from harm for all practitioners who provide fluoroscopic services, not just CRNAs. The Board of Health members and the members of the technical committee recommended that the Boards of Medicine and Surgery and Advanced Practice Registered Nurses jointly develop guidelines for the utilization of fluoroscopic procedures for all practitioners who perform such procedures independently. Both review bodies recommended that the Nebraska Radiation Control Act be updated to include practice standards for the utilization of fluoroscopic procedures.

Discussion on the Issues and Recommendations Generated by the Review

There are public health and safety concerns raised by the idea of allowing CRNAs to provide fluoroscopy services independently. This technology holds significant potential for harm to patients if practitioners do not possess sufficient education and training. Both of the review bodies agreed that this potential for harm encompasses any health professional who might lack sufficient education and training to perform these functions safely and effectively. They were in agreement that the principal risk to patients and providers stemming from fluoroscopy procedures relates to the amount of radiation exposure that is received in a given procedure. This potential for harm is significantly greater than in traditional x-ray procedures because fluoroscopy involves a continuous, moving x-ray picture, whereas a traditional x-ray is a single x-ray shot, and is not continuous. I agree with the technical committee and the Board of Health that there is significant potential for new harm to the public from the idea of expanding the right to perform fluoroscopic procedures to health professions not currently approved for such practice, but there are ways to ensure that this risk is kept at a manageable level.

Both review bodies agreed that the best way to address the potential for new harm to the public raised by this proposal is to define specific educational and training standards pertinent to fluoroscopy. The review bodies identified access to care issues in rural Nebraska that can be addressed by allowing CRNAs to provide fluoroscopy services independently. Both agreed that continuing current restrictions would seriously impede access to important health care services in these areas of our state. I agree with the technical committee and the Board of Health that the way to address these issues is to ensure that all practitioners who provide fluoroscopy services receive the education and training necessary to provide these services safely and effectively. This approval holds promise of addressing concerns about the quality of care without unduly restricting access to care.

The State of Minnesota recently updated its Radiation Control Act to adopt guidelines for the education and training necessary to provide fluoroscopy services. Both the technical committee and the Board of Health recommended that Nebraska adopt similar guidelines and standards. I have reviewed documentation that defines those guidelines and standards, and find that they would be an excellent starting point for the delineation of similar standards for Nebraska. However, it has come to my attention that the final version of the rules and regulations of the Minnesota program, approved in October, 2007, exempts licensed practitioners of the healing arts. This means that physicians (MDs), dentists, veterinarians, osteopaths, chiropractors, and podiatrists in effect are exempted from the training provisions of the revised Radiation Control Act. The earlier draft version used by the technical committee and the Board of Health during their review of these issues did not exempt these practitioners. I am concerned that both the technical committee and the Board of Health made their recommendations based upon the assumption that these practitioners would be included under this Act, and that if they had known that the final version of the rules and regulations was going to vary in this manner, their recommendations might have been different.

The two review bodies recommended that the members of the Boards of Medicine and Surgery and Advanced Practice Registered Nurses jointly develop a set of guidelines for the use of fluoroscopic procedures for all practitioners who perform these procedures independently. I do not agree with this recommendation. Usage guidelines and practice standards are, and should be, set by the health care community (including hospitals, peer groups, and national organizations), not by government. Licensees are already accountable, through existing regulatory processes, for practicing within the standard of care in their field. The establishment of guidelines by the agency would not add to the protection available to the public in this regard, would not be cost-effective, and would set a precedent for unnecessary government intrusion into the practice of health care.

During the course of the review it became evident that Nebraska's Radiation Control Act needs a significant update, especially to include appropriate education and training standards for the utilization of fluoroscopic procedures. The review bodies agreed that any standards and guidelines developed for this Act pertinent to fluoroscopy should be applied to all health care practitioners who provide fluoroscopic services independently, not just CRNAs. I agree in principle with both of these recommendations, with the caveat that I do not believe imposing new statutory limitations on the practice of licensed health professionals such as physicians, dentists, veterinarians, osteopaths, chiropractors, physician assistants, and podiatrists would be an appropriate way of carrying out the recommendations. These professionals already possess the necessary education and training to perform fluoroscopic procedures safely and effectively.

Much information and discussion during the review focused on the use of fluoroscopic procedures in the management of chronic pain. This is an important issue, but it is not central to the charge given for this review. The decision to use fluoroscopy for any specific procedure or patient is one that is best made by the health care practitioner, the facility, and the patient.

The Director's Recommendations

I believe that this review provides an opportunity to validate and strengthen the system currently in place for protecting the public from unnecessary radiation exposure. This system relies on licensed professionals to be trained in radiation safety procedures, for health care facilities to establish credentialing and safety guidelines and to monitor their observance, for facilities to keep appropriate records, and for the Radiation Control Act to provide the legal framework for all aspects of radiation safety. It also recognizes that the health care community is well aware of the dangers inherent in any radiological procedure, and strives to keep exposure times to a minimum and to institute appropriate safeguards and monitoring. This system works well and I see no need to develop a parallel regulatory system to oversee the use of fluoroscopy.

To this end I recommend that CRNAs be allowed to utilize fluoroscopy under the following terms and conditions:

- CRNAs should not be added to the list of exempt professionals under Sec. 71-3508(3), Revised Statutes of Nebraska;
- The Nebraska Radiation Control Act should be amended to mandate specific educational and training standards for the use of fluoroscopy by any health care practitioners not exempted in this section;
- Such standards should clearly identify the types of persons qualified to provide the necessary training and education, and the settings in which such training and education might be given; and
- Such standards should establish that the responsibility for assuring compliance and competency rests with the hospital, clinic, or other owner of the fluoroscopy equipment, through the development of internal standards of credentialing and safe operation and through documentation. Facilities should be held accountable for any failure to enforce the standards.

I have applied the four statutory criteria of the Nebraska Regulation of Health Professions Act to this set of recommendations and have concluded that they satisfy the criteria.