

Preliminary Report of Final Findings and Recommendations

By The

Technical Committee for the Review of the  
Application for a Change in Scope of Practice by the  
Nebraska Dental Association

To The

Director of Health and the Nebraska Legislature

December 16, 1985

The members appointed by Gregg F. Wright, M.D., M.Ed., Director of Health, to serve on the Dental Care Credentialing Review Technical Committee are as follows:

Richard Powell, O.D. - Chair, Board of Health member (Lincoln)

Judy Cada, R.N., J.D. - attorney, private practice (Lincoln)

Connie Edstrom, L.D.H. - dental hygienist, University of Nebraska Dental College (Lincoln)

Robert P. Marshall, R.P. - Executive Director, Nebraska Pharmacist Association (Lincoln)

Margaret Moravec, M.D. - anesthesiologist, private practice (Lincoln)

Richard Tempero, D.D.S., M.D. - oral and maxillofacial surgeon, private practice (Omaha)

Joan Trimpey - Instructor of Dental Assisting, Metropolitan Technical Community College (Papillion)

## Summary of Committee Findings and Recommendations

The committee voted six to one to approve an amended version of the proposal. The specific amendment, adopted by the committee by a vote of 7-0, states that inhalation analgesia can be monitored by dental auxiliaries under the indirect supervision of a dentist.

## Introduction

The Nebraska Credentialing Review Program, established by the Nebraska Regulation of Health Professions Act (LB 407), is a review process advisory to the Legislature which is designed to assess the necessity of state regulation of health professions in order to protect the public health, safety, and welfare.

The law directs those health occupations seeking credentialing or a change in scope of practice to submit an application for review to the Director of Health. At that time, an appropriate technical committee is formed to review the application and make recommendations after a public hearing is held. The recommendations are to be made on whether the health occupation should be credentialed according to the three criteria contained within Section 21 of LB 407; and if credentialing is necessary, at what level. The relevant materials and recommendations adopted by the technical committee are then sent to the Board of Health (after 1985) and the Director of Health for their review and recommendations. All recommendations are then forwarded to the Legislature.

In order to accommodate the health occupations that submitted credentialing legislation in the 1985 session, priority has been given to them so that they may complete the review process before the 1986 legislative session. This accommodation has resulted in a shortened review process in which the technical committee recommendations are sent directly to the Director of Health, bypassing the Board of Health for 1985.

## The Dental Anesthesia Proposal - Nebraska Dental Association

The Nebraska Dental Association seeks to clarify Section 71-183, paragraph 12 of the Revised Statutes of Nebraska pertaining to the administration of anesthetic agents by licensed dentists. The proposal provides that 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.

The proposal provides for the issuing of three permits in accordance with the type of anesthetic agent used. A Nebraska-licensed dentist would be issued a permit to administer general anesthesia on an outpatient basis to dental patients if he or she maintains a properly equipped facility for the administration of general anesthesia; employs properly trained and supervised dental auxiliary personnel who are capable of handling procedures, problems, and emergencies that accompany the administration of general anesthesia; has successfully completed an onsite evaluation covering the areas of physical evaluation, monitoring, sedation, and emergency medicine; and is certified in basic life-support skills or an equivalent thereof. In addition, the licensed dentist must meet at least one of the following criteria: the completion of one year of advanced training in anesthesiology and related academic subjects beyond the dental school level in an approved training program, or have a diploma from the American Board of Oral and Maxillofacial Surgery; or be eligible for examination by the American Board of Oral and Maxillofacial Surgery, or be a fellow of the American Dental Society of Anesthesiology, or is a licensed dentist who has been administering general anesthesia in a competent and efficient manner as determined by the board for ten years preceding the

effective date of the proposal. A dentist who has been issued a permit to administer general anesthesia may also administer intravenous sedation or inhalation analgesia.

A Nebraska licensed dentist would be issued a permit to administer parenteral sedation on an outpatient basis to dental patients if he or she maintains a properly equipped facility for the administration of parenteral sedation; employs properly trained and supervised dental auxiliary personnel who are capable of reasonably handling procedures, problems, and emergencies that accompany the administration of parenteral sedation; is certified in basic life-support skills or the equivalent thereof; has successfully completed an onsite evaluation covering the areas of physical evaluation, monitoring, sedation, and emergency medicine; and is certified as competent in the administration of parenteral sedation and in handling all related emergencies by a university, teaching hospital, or other facility approved by the board; or by completing a specified curriculum of an accredited dental school; or has been administering parenteral sedation in a competent and efficient manner for twelve months preceding the effective date of this proposal. A dentist who has been issued a permit to administer parenteral sedation may also administer inhalation analgesia.

According to the proposal, general anesthesia and parenteral sedation shall not be administered by a dentist without the presence and assistance of one or more dental auxiliaries.

A Nebraska licensed dentist should be issued a permit to administer inhalation analgesia if he or she maintains a properly equipped facility for the administration of inhalation analgesia; employs properly trained and supervised dental auxiliary personnel who are capable of reasonably handling procedures, problems, and emergencies that accompany the administration of inhalation analgesia; is certified in basic life-support

skills or the equivalent thereof; and has completed an approved two day training course or equivalent training which may be acquired while studying at an accredited school of dentistry; or has been administering inhalation analgesia in a competent and efficient manner for twelve months preceding the effective date of the proposal.

A dentist who has been administering general anesthesia, parenteral sedation, or inhalation analgesia prior to the effective date of the proposal could continue to do so for a twelve month period. During that period, the dentist would have to apply to the board for a permit to continue using such methods. The dentist would also be required to file with the board an incident report stating that no incident has occurred within the last three years that would require such a report. A temporary or provisional permit could also be issued by the board for a new applicant based solely on a preliminary examination of the applicant's credentials. Such a permit would be valid for a twelve month period.

The proposal would not permit any dentist, dental hygienist, or other dental auxiliary personnel to administer to himself/herself any drug or agent used for anesthesia, analgesia, or sedation. In addition, the proposal would allow the board to inspect at their discretion, any practice location of a dentist applying for a permit.

According to the proposal, all Nebraska-licensed dentists practicing in the state would be required to submit an incident report to the board within thirty days of any mortality or other incident which results in temporary or permanent physical or mental injury requiring hospitalization of a patient as a direct result of inhalation analgesia, parenteral sedation, or general anesthesia. Failure to submit an incident report as required would result in loss of the permit.

Permits issued by the board would be valid for four years. Violations of the proposal could result in the revocation or suspension of the dentist's permit, license, or both or in a reprimand or probation by the board.

## Overview of Committee Proceedings

The Dental Care Credentialing Review Technical Committee first convened on August 8, 1985, in Lincoln at the State Office Building. An orientation session given by the staff focused specifically on the role, duties, and responsibilities of the committee under the credentialing review process. Other areas touched upon were the charge to the committee, the three criteria for credentialing contained within Section 21 of LB 407, and potential problems that the committee might confront while proceeding through the review.

The second meeting of the committee was held on August 23, 1985, in Lincoln at the State Office Building. After study of the proposal and relevant material compiled by the staff and submitted by interested parties between the meetings, the committee formulated a set of questions and issues it felt needed to be addressed at the public hearing. Contained within these questions and issues were specific requests for information that the committee felt was needed before any decisions could be made.

The committee reconvened on September 19, 1985, in Lincoln at the State Office Building for the public hearing. Proponents, opponents, and neutral parties were given the opportunity to express their views on the proposal and the questions and issues raised by the committee at their second meeting. Four people spoke in favor of the proposal with no opposition. Interested parties were given ten days to submit final comments to the committee.

The committee met for the fourth time on October 28, 1985, in Lincoln at the State Office Building. After studying all of the relevant information concerning the proposal, the committee then formulated its recommendations. The three criteria found in Section 21 of LB 407 formed

the basis for the discussion. The following "discussion areas" have been developed in order to better adapt the criteria to the needs of a scope of practice proposal.

#### Discussion Area One

The current practice situation 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.

##### Information Provided by the Applicant Group

The proponents state that changes in technology and dental practice as regards anesthesia have created new dangers for the public. It has become common for dentists to use the full range of anesthetic techniques in their practice. This includes inhalation analgesia (nitrous oxide), parenteral sedation (injection), and general anesthesia. These techniques are potentially hazardous to the public health if administered by people who lack adequate training in anesthesiology, and the proponents state that the administration of anesthesia in a dentist's office is currently unregulated. (p. 6 of the Transcript of the Public Hearing of the Dental Care Technical Committee.)

The proponents argue that all three of these types of anesthesia pose at least potential harm to the public. General anesthesia is the most obvious example, since the patient requires assistance from another person to maintain life. Incompetence in either the administration or the monitoring of general anesthesia can result in the death of a patient. Parenteral anesthesia and the use of nitrous oxide while less dangerous than general anesthesia, also pose hazards for the public if improperly administered. Physical harm can occur from injections or erroneous use of

drugs. Such damage can take the form of lacerations or damage to the nervous system. Emotional stress can result from improperly administered anesthesia. Financial loss can also result if treatment is substandard and has to be done over again. (p. 11 of the application.)

The proponents presented evidence to demonstrate that deaths have resulted from the abuse of anesthetics by dentists or dental personnel. Deaths have occurred in dental offices in the states of Alaska, Colorado, Montana, and California. In California, one dentist alone has had multiple deaths in his office. These facts not only illustrate the harm done to the public by the unregulated conduct of dental anesthesiology in other states, but also the potential for harm here in Nebraska as well. (p. 6 of the Transcript of the Public Hearing of the Dental Care Technical Committee.)

The proponents believe that many dentists are currently unqualified to administer anesthesia in a manner consistent with public safety. The educational requirements for a dental degree have not kept pace with new technologies or techniques. However, anyone with a degree in dentistry and who meets the requirements of the Department of Health to practice dentistry, may, according to current law, utilize any anesthetic technique he wants to, regardless of his or her qualifications in that area. This is a situation that the proponents wish to correct via the proposal.

#### Information from Other Sources

No one questioned the proposition that the current practice situation can clearly harm the public health and welfare.

## Discussion Area 2

The Proposal if adopted could 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.

### Information Provided by Interested Parties

No group spoke in opposition to the central idea of the proposal, namely, that dentists should be required to gain more formal training in dental anesthesia. However, some interested parties expressed concerns over specific provisions of LB 438, the current legislative manifestation of the proposal. The Nebraska Dental Hygiene Association expressed concern over those provisions which mentioned the supervision of dental auxiliaries. The hygienists want the bill to define administration and monitoring in practice settings. The Dental Assistants Association also expressed concerns over the wording of some provisions of the bill. In particular, the use of the term "qualified" in the definition of dental auxiliary needs to be made more specific.

### Information Provided by the Applicant Group

In response to these criticisms, the Nebraska Dental Association has proposed several amendments to LB 438. Concerning the definition of dental auxiliaries, proposed changes would acknowledge the fact that the dentist need not be physically present in the room where the hygienist is performing duties when nitrous oxide is being used. (Memorandum to staff from the Nebraska Dental Association.)

The Dental Association also proposed to strike the term "qualified" as regards dental assistants, and to substitute "who assists," instead. Concerning the issue of monitoring, the Dental Association sought to

redefine the term to mean the assessment of the current physiologic status of the patient. It is not their intent that monitoring should necessarily mean the direct overseeing of specific procedures, but could also include indirect supervision as well.

#### Committee Recommendations

The committee voted six to one to approve an amended version of the proposal. The specific amendment alters the definition of the term "dental auxiliary" in subsection 3 of section 2, lines 9 through 15 of LB 438 as follows:

Dental auxiliary shall mean a person ~~qualified-to-assist~~ who assists the dentist under his or her direct supervision in the monitoring of general anesthesia, ~~inhalation analgesia,~~ and parenteral sedation (by monitoring the vital signs and assisting in emergency care of the patient) and shall mean a person who assists the dentist under his or her indirect supervision in the monitoring of inhalation analgesia. Dental auxiliary personnel and hygienists who assist in the monitoring of inhalation analgesia, parenteral sedation, and general anesthesia shall be currently certified in basic life-support skills or the equivalent thereof.

