STATE OF NEBRASKA

DEPARTMENT OF HEALTH

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GOVERNOR

GREGG F. WRIGHT, M.D., M.ED.
DIRECTOR

MEMORANDUM

TO: Senator Don Wesely, Chairman
Legislature's Health & Human Services Committee

FROM: Gregg F. Wright, M.D., M.Ed.
Director of Health

DATE: March 30, 1988

SUBJECT: Recommendations Regarding the Credentialing of Marriage and Family Therapists

To complete the final report on the proposal for credentialing of Marriage and Family Therapists, the Department has reviewed the application material, the information presented at the public hearing, the reports from both the technical committee and the Board of Health, and the Department's current regulatory authority and capability.

Recommendations

In their original proposal, the Nebraska Chapter of the American Association of Marriage and Family Therapy (AAMFT) sought licensure for all persons providing marriage and family therapy in Nebraska. During the review process, the applicant group modified its proposal to request certification rather than licensure. The technical committee recommended that there be no credentialing of marriage and family therapists at this time. The Board of Health concurred with this recommendation.

The Department also recommends against credentialing of marriage and family therapists, and instead recommends that greater effort be made to improve consumer education in the area of behavioral counseling. The Department also recommends that the Legislature reconsider the concept of registration for all mental health counseling practitioners who currently lack credentialing.

Discussion

The proposal to credential marriage and family therapists raises several questions, the first one being: Is there harm to the public inherent in the current practice situation of marriage and family counseling in Nebraska?

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In order to answer this question, a brief overview of the educational and experiential background of those who provide these services in Nebraska is necessary. Marriage and family counseling is provided by a number of different groups in Nebraska. It is part of the practice of many different credentialed professionals including psychologists, social workers, physicians, and nurses.

In addition, it is performed by individuals who are not credentialed by the state, and who may or may not be certified by the American Association of Marriage and Family Therapists. Finally, it is provided by the clergy. The attached schematic model entitled "Practice of Marriage and Family Therapy in Nebraska," provides a generalized description of the professions whose members frequently provide marriage and family counseling.

Section 'A' on the model, shown in white, includes professions whose members already possess some type of credentialing from the state of Nebraska. Some of these professions have been licensed in Nebraska for many years and all are currently credentialed. The members of these professions possess advanced formal educations, and many are also certified by private organizations that serve the needs of their professions. Few complaints have been filed against members of these professions in Nebraska regarding their practice of marriage and family therapy. However, even if some of these practitioners were identified as a source of harm, regulatory mechanisms already exist to deal with such harm. Section 'B' on the model refers to pastoral counselors. Pastoral counseling is not regulated by the state and no proposal has been advanced to do so. Section 'C' includes practitioners who either possess private certification through AAMFT, or who would be eligible for certification under the terms of the proposal but who are not AAMFT members. These practitioners already possess advanced educations in their respective fields, and therefore, are unlikely to be a source of harm to the public through lack of education or training. Again, there was little or no evidence submitted during the review identifying this group as likely to harm the public. Section 'D' refers to practitioners who lack the necessary qualifications to be certified by any agency, whether public or private. In my judgment these practitioners may constitute a potential source of harm to the public. There is great potential for harm in any area of mental health counseling when practitioners lack adequate training to provide the services in question.

Having identified the most likely source of harm to the public, information is needed on the extent of this harm. Unfortunately, neither the technical committee nor the Board of Health were able to gather sufficient information on the extent of the harm. However, material gathered through a survey of Lincoln and Omaha yellow pages listings is at least indicative. A list of all persons presenting themselves as marriage and family counselors in the yellow pages of Lincoln and Omaha telephone directories was cross-referenced to current files of credentialed practitioners by the Bureau of Examining Boards. The attached table shows the results of this survey. The table not only shows the diversity in the professional backgrounds of marriage and family counselors, but also the fact that more than 50 percent of the practitioners in Omaha and Lincoln are already credentialed. However, the qualifications of more than 40 percent of the practitioners on the lists could not be ascertained.

The next question that must be addressed is: What can be done to address this harm?

We could, as is proposed in the application, establish state certification for those who provide marriage and family counseling. This would in essence establish marriage and family counselors as a distinct separate profession from other mental health professions in Nebraska. I do not believe that this would address the potential harm posed by the unqualified practitioners. Certifying marriage and family therapists would in my judgment merely create a credential for those who are already qualified to provide the services in question. Most of the practitioners who would be covered by such a regulatory process are either members of currently regulated professions, or have membership in such organizations as the American Association of Marriage and Family Therapy.

The latter is a private organization that certifies those who provide marriage and family services. Unqualified practitioners would not be affected by state certification. Since these are the most likely source of harm to the public, it seems clear that, by failing to regulate them in any way, state certification would not provide any significant added protection to the public. In effect, the state does not need to provide an additional certification as a workable private certification already exists.

The proposal seeks to make "marriage and family therapist" a protected title, and would require all practitioners of marriage and family counseling to hold a special credential as a marriage and family therapist in order to use the title. This would appear to be an unnecessary step. Marriage and family therapy is recognized to be a part of the practice of a number of credentialed professions, including psychology, medicine, and social work. As has been previously noted, there is simply no evidence that these practitioners are in need of further regulation, or that they are in any way failing to perform in a satisfactory manner in providing marriage and family therapy. Title protection is effective in protecting the public only when qualified practitioners are allowed to use the title. This proposal would appear to restrict the title much too severely, and would prevent qualified persons from performing needed services. This could lead to a sharp reduction in the availability of services to the public. Nothing in the application appears to justify such a situation other than the applicant group's assertion that they are a separate profession and, as such, should have a protected title.

The review spent considerable time grappling with the issue of whether marriage and family therapy is a separate profession, or whether it is a specialty of other behavioral science professions. I do not feel this is a meaningful question, in that there is no independent test to establish when a "specialty" becomes a "profession." This distinction is a function of legislative determination, rather than being one that must be determined before a legislative decision is made. In essence, a separate profession becomes separate when and because it is granted legal autonomy.

If this is the case, then the question we most appropriately should address is: Should marriage and family therapy be recognized as a distinct profession in Nebraska? I feel the answer is, "no." Creating a separate credential for this group could establish a precedent that would encourage other subgroups within the mental health professions to seek a separate, distinct credentialing system for themselves as well. This would fragment the health care delivery system vis-a-vis the provision of mental health services which in turn would drive up the costs of those services. Such fragmentation could be justified only if there were clear benefits to offset the negative impact. The applicant group has not demonstrated to my satisfaction that services to the public would improve sufficiently to offset the increased cost of such a fragmented system. Establishing such a precedent is, therefore, not in the best interests of the people of Nebraska.

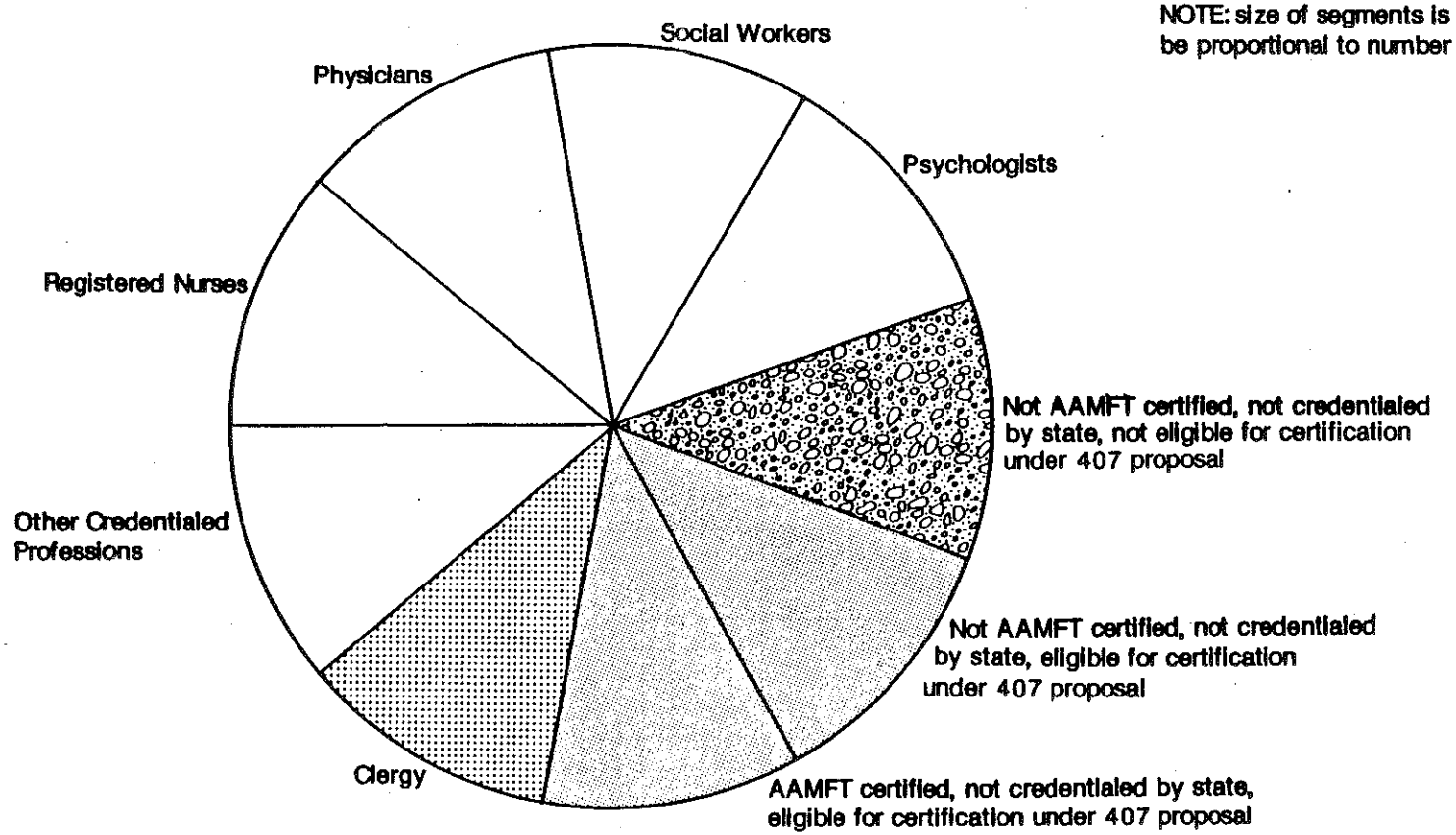
The Legislature should explore other alternatives. Registration of all mental health counseling practitioners who currently lack credentialing is one alternative providing that an appropriately-worded vehicle for this alternative can be developed. I realize that, in the wake of LB 579, there is hesitation to consider this as one alternative. But I remain convinced that, with careful and precise statutory direction, registration is a viable option for regulation of certain behavioral science practices.

Making improvements in the area of consumer education is another way to address this problem. Government cannot provide total protection from harm to the public in the area of health care. It is important that public awareness in the area of marriage and family counseling be improved so that citizens can exercise an informed choice regarding those who provide marriage and family counseling services.

GFW:das
Attachments

Attachment 1

Practice of Marriage and Family Therapy in Nebraska



A — Credentialed professions

B — Clergy

C — Eligible for state certification

D — Not eligible for any certification

Attachment 2

Information on

Marriage & Family Therapy Practitioners

Who Have Advertised Their Services in

Lincoln & Omaha Telephone Directories

Credentialed Practitioners by Profession	Number of Practitioners
Social Workers	40
Psychologists	40
Psychiatrists	4
Total Credentialed Practitioners	84
Non-Credentialed Practitioners	74
Total Number of Practitioners	158

Note: Professional Counselors were not included among the credentialed practitioners because as of yet no professional counselors have been certified under the terms of The Professional Counselors Act.

Only 16 of the 158 practitioners identified themselves as American Association of Marriage & Family Therapy members.