Report on Findings and Recommendations

By the

Nebraska Board of Health

on the Change of Scope of Practice

of the

American Massage Therapy Association

(Nebraska Chapter)

to the

Director of Health

and the

Nebraska Legislature

November 16, 1987

Introduction

The Nebraska Regulation of Health Professions Act created a three-tier process for the review of proposals pertaining to the credentialing of health occupations. These three tiers are the technical review committees, the Board of Health, and the Director of Health. The Board of Health reviews specific proposals for credentialing only after the technical committees have completed their reports on these proposals. After the Board completes its reports on the proposals, these reports, and those of the technical committees are presented to the Director of Health, who in turn prepares his own report on them. All reports are submitted to the Legislature for its consideration.

Each of these three review bodies issues reports that represent the advice of their membership on the proposals in question. Each report is a separate, independent response to the proposals, and is in no way dependent upon the reports that have preceded it.

The Board of Health reviews credentialing proposals only after receiving a preliminary recommendation on each proposal from an advisory committee selected from its own membership. This committee met on August 28, 1987, in order to give the full Board its advice on the proposal of the massage therapists. The full Board of Health met on September 21, 1987, and formulated its own, independent report on this proposal. The following pages constitute the body of this report.

Recommendations

In their application, the Nebraska Chapter of the American Massage Therapy Association sought to alter its practice act so that it would be retitled "Massage Therapy," and the term therapy would be added to any reference to the profession of massage. The technical committee recommended the approval of the proposal, with modifications pertaining to discipline and law enforcement. These modifications included the recommendation that the Uniform Licensure Act be applied to the massage statute, the revision of statutory language on mechanical and electrical apparatuses pertinent to the change in scope of practice, a mandatory continuing education provision, and revision of certain apprentice course requirements to better fit the change in scope of practice. The Board of Health decided not to recommend approval of the proposed name change from massage to massage therapy. However, the Board did support the other recommendations of the Committee and recommended that the practice of massage be brought under the Uniform Licensing Law insofar as possible. The Board did recommend that the professional title be changed to "massage practitioner."

Discussion

The 407 Advisory Committee of the Board of Health discussed the pertinent issues raised by the application prior to the discussion that occurred during the meeting of the full Board of Health. The 407 Advisory Committee endorsed those aspects of the technical committee report which pertained to disciplinary matters and law enforcement. Specifically, they agreed with the technical committee that many of the problems identified by the applicant group could be dealt with by the inclusion of the disciplinary provisions contained in the Uniform Licensure Act in the massage statute.

Regarding the proposed change in scope of practice, the committee members expressed concerns about allowing massage practitioners to call themselves therapists. There was concern that if massage personnel were allowed to advertise themselves as therapists, persons with health problems might seek out massage practitioners in order to get treatment for these problems, falsely concluding that the massage practitioners in question could treat people's health problems. Given the fact that massage practitioners are not trained to provide such services, the committee was concerned that approval of the proposal might create potential for harm to the public.

The committee members decided not to make a recommendation to the full Board regarding the proposed change in scope of practice for massage because they felt that there was need for more information on this issue. Specifically, the committee members wanted information on what if any legal restrictions there are on the terms "therapy" and "practitioner," which could help the Board of Health formulate alternatives to the name change proposed by the applicant group. The committee members wanted this information so that the full Board could consider the merits of the idea of recommending that massage professionals be called "massage practitioners" rather than "massage therapists."

The members of the Board of Health agreed with the technical committee and the 407 Advisory Committee that there is a need for improving the disciplinary provisions of the massage statute. Mrs. Coleman moved that the Board recommend the adoption of all technical committee recommendations except the one pertaining to the name change. Dr. Powell seconded the motion. Voting aye were: Clark, Coleman, Brown-Arfmann, Nelson, Adickes, Powell, Rhodes, Bartels, Quinn, Gilmore, Schneider, and Hilkemann. There were no nay votes.

The Board then took action on the three criteria as they pertain to the proposal. Dr. Powell moved that the current situation with respect to the scope of practice of massage can clearly harm or endanger the health, safety, or welfare of the public. Dr. Adickes seconded the motion. Voting aye were: Clark, Coleman, Brown-Arfmann, Nelson, Adickes, Powell, Rhodes, Bartels, Quinn, Gilmore, Schneider, and Hilkemann. There were no nay votes.

Dr. Powell moved that the public needs and can reasonably be expected to benefit from appropriate changes in professional ability regarding the profession of massage. Dr. Nelson seconded the motion. Some board members stated that changing the name of the profession in question by adding the term of "therapy" to their title might endanger the public health and welfare in that the public might falsely perceive that massage therapists can treat people's health problems. Voting aye were: Powell and Hilkemann. Voting nay were: Clark, Coleman, Brown-Arfmann, Nelson, Adickes, Rhodes, Bartels, Quinn, Gilmore, and Schneider.

Mrs. Coleman moved that the public cannot be effectively protected by other means in a more cost-effective manner than by the proposed change in scope of practice. Mr. Clark seconded the motion. Voting aye were: Clark, Coleman, Nelson, Powell, and Hilkemann. Voting nay were: Brown-Arfmann, Adickes, Rhodes, Bartels, Quinn, Gilmore, and Schneider. By virtue of this vote and the vote on Criterion Two, the Board recommended against the approval of the proposed change in scope of practice.

Mrs. Coleman then moved that the Board of Health accept the three criteria with the provision that the term "practitioner" be substituted for the term "therapist" as the proposed title for the profession of massage. Dr. Schneider seconded the motion. The Board members felt that adding the term practitioner to the title of the profession in question would serve the

purpose of differentiating legitimate practitioners from disreputable elements, without creating potential harm to the public. Voting aye were: Clark, Coleman, Nelson, Powell, Rhodes, Gilmore, and Schneider. Voting nay were: Brown-Arfmann, Adickes, Bartels, Quinn, and Hilkemann. By this action, the Board recommended the approval of the revised version of the proposal.