DIRECTOR'S REPORT ON THE PROPOSAL TO EXPAND THE SCOPE OF PRACTICE OF NURSE PRACTITIONERS

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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

Date: **December 2, 2013**

Introduction

The Regulation of Health Professions Act (as defined in Neb. Rev. Stat., Section 71-6201, et. seq.) is commonly referred to as the Credentialing Review Program. 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 Issue under Review

The applicant group is seeking the elimination of the current requirement that all nurse practitioners in Nebraska must possess a practice agreement with a physician in order to practice as nurse practitioners.

Summary of Technical Committee and Board of Health Recommendations

The technical review committee members recommended approval of the applicants' proposal. These committee members also recommended approval of the following ancillary recommendation:

> There should be some form of supervision or mentorship for new nurse practitioners for the first years of their practice. The time period for such supervision or mentorship practice should be relative to the experience and demonstrated competency of the nurse practitioner in specific areas of practice.

The Board of Health recommended approval of the applicants' proposal. The members of the Board of Health recommended approval of the following ancillary recommendations:

- There should be some form of supervision or mentorship for new nurse practitioners for the first years of their practice. The time period for such supervision or mentorship practice should be relative to the experience and demonstrated competency of the nurse practitioner in specific areas of practice.
- Additional measures of on-going competency, above and beyond current continuing education, should be developed.

The Director's Recommendations on the Proposal

In reviewing this proposal to eliminate the practice agreement, what is apparent is that both nurse practitioners and physicians believe that the practice agreement has not worked as intended. Nurse practitioners feel that this system imposes burdensome costs on them and threatens to disrupt their delivery of services without providing them with any of the benefits promised to them when the system was created. Physicians have been concerned that they are going to be held liable for the actions of persons over whom they have little or no control. The result of all these concerns and fears is a system that does not work as designed. As the overseeing parties in this system physicians bear a heavy responsibility to make this system work the way it was intended. Physicians need to live up to the intent of the practice agreement if it is to have any chance of continuing as a component of our regulatory process for nurse practitioners.

Those who argue that this system should be eliminated posit that nurse practitioners have difficulties in getting a practice agreement, and when they get one, keeping it can be a challenge. They argue that this situation makes it difficult to establish and maintain a practice in Nebraska. However, there is no compelling evidence to indicate that the public is being harmed by the current practice situation, or that it is somehow interfering with the delivery of services. There is no information to suggest that significant numbers of nurse practitioners are unable to find a physician willing to sign a practice agreement. Equally rare are situations in which nurse practitioner services are disrupted by physicians terminating a practice agreement. Even when this does occur, there is no reason to believe that a nurse practitioner, so impacted, would be unable to find another physician willing to sign a practice agreement.

Likewise, there is no evidence that the public would benefit from eliminating the practice agreement. There is nothing that indicates that the public's access to care would be improved by such action, or that such action would alter, in any way, current practice patterns or services of nurse practitioners. For the most part, those nurse practitioners who seek a practice agreement receive one. Those who cannot find a physician partner are eligible for a waiver from the requirement if they can document that they have been searching for a partner without success for at least two years. However, since the inception of the waiver concept twenty years ago there have been only six nurse practitioners who have requested such a waiver. For purposes of comparison and perspective on this aspect of the issue, there are currently about 1200 nurse practitioners in Nebraska.

Eliminating the practice agreement without replacing it with some kind of formal arrangement would be tantamount to the establishment of totally independent practice for nurse practitioners. Such a course of action without first identifying an alternative means by which nurse practitioners can be included in viable practitioner referral networks creates potential safety issues for patients. This is because nurse practitioner education and training lacks sufficient clinical depth and breadth for total independent practice. Nurse practitioner clinical experience compares unfavorably with that of primary care physicians with regard to the number of clinical hours, for example. For this reason they need to continue to be a part of some type of provider network rather than being totally independent.

The proposal also falls short regarding how recent graduates of nurse practitioner programs would maintain and develop their professional competency, especially those recent graduates from nurse practitioner programs who graduate without the benefit of having first practiced in some other capacity in nursing, such as having practiced for several years as an RN, for example. These nurse practitioners lack sufficient clinical experience to practice independently, and would have more difficulty making the transition to independent practice than would those nurses who have had work experience prior to becoming a nurse practitioner. When applicant representatives were asked about this problem during the review, they indicated that they did not yet know how to address this problem.

The technical committee and the Board of Health attempted to address this problem by creating ancillary recommendations calling for the creation of a special mentoring program for recent graduates. Unfortunately, these ancillary recommendations lack specifics regarding who would provide this mentoring, or how it would be done, or how professional standards would be enforced in this context. Until such concerns are addressed, I cannot recommend this approach as an alternative to the current practice. It would not be in the public's best interest to allow recent graduates of nurse practitioner programs to practice independently without a network of support.

Based on these thoughts and the record of the review, I hereby recommend against approval of the proposal. The risks of the proposal outweigh the benefits that might arise from passing it. I appreciate and understand the concerns raised by the applicants about their current practice situation during the review. The current practice agreement is not ideal in regard to practice stability and continuity of care. Having one's practice disrupted because their physician partner retired or moved to another state is disconcerting. But until someone provides an alternative approach to establishing provider networks and assuring sufficient education and training for nurse practitioners that is better than the current one, I cannot recommend the elimination of the practice agreement. A network of some kind is still necessary to ensure public safety, given current nurse practitioner education and training.

With all of this said, I challenge the concerned parties to identify ways to address the problems with the current situation. Ideas that might be helpful in this regard include the following:

- Requiring training as a precondition for nurse practitioner status similar to a residency. Depending on the details defined under this kind of preparation, this approach might allow the termination of the practice agreement to occur without incurring unacceptable risk to public safety.
- Requiring a clinical doctorate as a precondition for nurse practitioner status. This too might allow the termination of the practice agreement to occur without incurring unacceptable risk to public safety.
- Limiting the requirement for a practice agreement to new and inexperienced nurse practitioners, and specifying a time frame for their transition to independence is another idea. This could be accompanied by some kind of mentorship component, as well, for example. The length of such an agreement could be linked to the experience of the nurse practitioner in question and competency assessments.
- Finding ways of making the current practice agreement work the way it was supposed to work.

I am sure there are other ideas worthy of consideration if we were to seek viable alternatives to the current system. Hopefully, a viable option will be found. But until that occurs I do not recommend terminating the current practice agreement. Such action would not be consistent with the goal of ensuring public safety, a goal all policy makers share.