



STATE OF NEBRASKA

ROBERT KERREY • GOVERNOR • GREGG F. WRIGHT, M.D., M.Ed. • DIRECTOR

MEMORANDUM

TO: Senator Donald Wesely

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

SUBJECT: Recommendations Regarding Credentialing of Dental Assistants

DATE: January 3, 1986

Introduction

In preparing my recommendations on the dental assistants proposal, I have attempted to conform to both the letter and the spirit of LB 407. My principal concern has been to try to assure that there has been a reasonably uniform interpretation and application of the philosophy, criteria, and procedures required by the act.

The language of LB 407 is quite specific in identifying the three criteria that must be satisfied by any group seeking professional credentialing. Briefly stated, these are that there must be clear evidence of harm to the public resulting from the lack of regulation; that the public must need and benefit from an assurance of minimum standards of competence; and that no method other than regulation by the state provides for cost-effective protection of the public.

However, each of the technical review committees has found it necessary to determine for itself how to apply these criteria. For example, each has had to decide what type and amount of documentation of actual or potential harm to the public is sufficient to warrant exercise of the regulatory powers of the state. If the committee found the three criteria to be met, it had to determine which level of regulation was most appropriate. Most importantly, each committee has had to determine whether the proposed regulation will, in fact, protect the public from the harm that has been documented.

I have attempted to identify each of these elements in the committee report, and I have scrutinized the application, and the evidence and testimony submitted by all parties. In making my recommendations, therefore, I have reviewed the same material that was used by the technical committee. But I have also been guided by the intent of LB 407 to provide a uniform application of a broad philosophy of regulation to all applications. I take this philosophy as one that

views state regulation as a means of last resort. This philosophy finds the necessity for regulation to rest almost exclusively in the need to protect the health, safety, and welfare of the public from the prospect of widespread and significant harm. It seeks to balance this necessity against the very real economic and social costs of regulation, such as restriction of competition, potential increases in the cost of health care, limitation of the availability and accessibility of services, and increases in the size and cost of state government.

In this light, I submit the following comments and recommendations regarding the proposal for credentialing of the dental assistants.

Recommendations

The dental assistants proposal sought registration for all practicing dental assistants with prerequisites.

The technical review committee recommended the denial of this proposal on the grounds that the applicants have not demonstrated that the current practice situation clearly harms or endangers the health, safety, or welfare of the public. I concur with the committee's recommendation.

Discussion

Dental assistants are part of a more general class referred to in the statutes as dental auxiliaries. They must work under the supervision of a dentist who retains complete responsibility for all of their actions. If a patient believes that an assistant's performance has been substandard, grievance procedures can be undertaken against the supervising dentist. Action can be taken against the license of a dentist found negligent in managing the conduct of any process associated with work in a dental office, including those of dental assistants. Neither the Board of Dental Examiners nor the Bureau of Examining Boards have received complaints from the public concerning the performance of dental assistants. In my judgement, the current situation is adequate to protect the public.

The 407 process has drawn attention to two problems related to dental assistants. Evidence submitted by the applicants would indicate that some tasks are being inappropriately delegated to dental assistants. The remedy for this is not necessarily a greater degree of credentialing of the group. In fact, additional credentialing could simply reinforce inappropriate practice patterns and lead to a greater problem. Unless there is a demonstrated need for greater delegation, the appropriate remedy is improved enforcement of the current statutes. This is consistent with LB 407 which requires the state to invoke the least restrictive means of regulation whenever possible.

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A second problem highlighted by this process is some ambiguity in the regulations concerning dental auxiliaries. While the regulations delegate to dental hygienists all of the duties which can be done by other dental auxiliaries, they also prohibit other auxiliaries from doing any of the clinical services that may be performed by dental hygienists. This circular reference can be remedied by revising these regulations. A more clear regulatory definition of the appropriate scope of dental auxiliaries will help in the improved enforcement of the statutes mentioned above. It may be helpful to clarify the statutes to acknowledge two groups: dental hygienists and dental assistants and removing the ambiguous reference to dental auxiliaries.

GFW/blw

cc: Senator Harry B. Chronister
Senator Timothy J. Hall
Senator Dan Lynch
Senator Richard Peterson
Senator Jacklyn J. Smith
Senator Ron Withem