

## **DIRECTOR'S REPORT ON THE PROPOSAL FOR LICENSING PERFUSIONISTS**

**From: Joann Schaefer, M.D., Chief Medical Officer  
Director, HHS Regulation and Licensure**

**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: March 28, 2007**

### **Introduction**

The Regulation of Health Professions Act provides for an administrative process to review and present to the Nebraska Legislature recommendations regarding change in scope of practice of licensed health care professionals and the establishment of new credentialing for currently unregulated professions. This process (as defined in Neb. Rev. Stat., Section 71-6201, et. seq.) is commonly referred to as a credentialing review. The Department of Health and Human Services Regulation and Licensure administers the Act. As Director of this Department, I am presenting this report under the authority of this Act.

### **Description of the Applicant Group and Summary of the Applicants' Proposal**

The applicant group is the Nebraska Perfusion Society. The proposal would license all current practitioners in Nebraska. Under the terms of the proposal those practitioners who do not meet the standards defined by the national certification process would be grandfathered in for one year. After one year the grandfathered practitioners must satisfy the national certification standards or relinquish their license.

### **Summary of Technical Committee and Board of Health Recommendations**

The technical committee recommended in favor of the proposal. The Board of Health also recommended in favor of the proposal. Both of these review bodies were concerned that something needs to be done to ensure that substandard practitioners be excluded from practice given the "life-and-death" nature of perfusion practice, and both came to the conclusion that licensure of all practitioners was the best way to accomplish that objective.

## **The Director's Recommendations on the Proposal Using the Four Criteria of the Credentialing Review Statute**

The **first criterion** asks whether there is harm or potential for harm inherent in the current practice situation of the profession under review. I find that the current unregulated practice of perfusion in Nebraska is at least a potential source of harm to the public health and welfare, and that the services in question are not only vitally important, but that they also involve procedures that are literally matters of life and death. Under the current practice situation there is no requirement that a health care facility providing heart surgery services must employ persons who possess the necessary education or training to provide perfusion services safely and effectively. There is a national certification process, but this process is voluntary, and employers are free to hire whomever they wish. One could argue that it is in the best interests of employers to hire certified people so as to avoid liability concerns that might stem from harmful or unsafe practice. Over time, perfusion has become a field characterized by considerable technological complexity, both in equipment and patients. While on-the-job training is invaluable, proper certification assures to a more reasonable standard the education and training to be met by all. However, facilities, for reasons of cost-containment, might be tempted to hire non-certified people to provide perfusion services with the idea of providing in-house on-the-job training for such employees in the hope that such training is "just as good" as the more formal education and training associated with the national certification standards. I do not believe, however, that there is any substitute for a formal education and training process when it comes to services that literally involve matters of life and death. I find the proposal satisfies criterion one.

The **second criterion** asks whether the proposal would be likely to create significant new harm to the public health and welfare that would cancel out any benefits that the public might attain from the proposal. I find that the benefits of the proposal to public health outweigh the potential costs associated with its implementation. Every effort should be made, however, to house this regulatory board within that of another board or a subcommittee of a board since this is a very small number of individuals to be regulated. I find that the proposal satisfies criterion two.

The **third criterion** asks whether the proposal would create significant benefit to the public health and welfare. I find that there would be very clear benefits, including reasonable assurance of public protection and the provision of disciplinary action against incompetent or fraudulent providers.

The **fourth criterion** asks whether the proposal would be the most cost-effective means of addressing the problems with the current practice situation. I find that the proposal would be the most cost-effective means of addressing problems associated with perfusion services. I cannot think of any more cost-effective means of providing protection for the public as regards perfusion services than the licensure of all perfusion providers. Having said this, it is imperative that the regulatory board or subcommittee of an existing board does not become as large, half as large or even one quarter as large as the regulated professionals. There are approximately 30 proposed licensees in this profession.

The information below is, I believe, useful when addressing the need for a separate board for a small but vital profession such as perfusionists:

The total number of boards currently regulating health professions and occupations is 25. The total number of members serving on these boards is 177. The average board size is about seven members. The size of boards ranges from four to 17 members. The number of active licenses regulated by the boards ranges from 79 (Environmental Health Specialists) to 21,016 (Registered Nurses).

**By these four actions on the criteria I hereby recommend that the proposal be approved.**