

Final Report of  
Findings and Recommendations

By the  
Nebraska State Board of Health

on the  
Application on  
the Phlebotomy Proposal  
to the  
Director of Health  
and the  
Nebraska Legislature

January 27, 1992

## Recommendations of the Full Board of Health on the Proposal

The members of the full Board of Health met on January 27, 1992, in Lincoln in the State Health Department to formulate their recommendations on phlebotomy. The discussion of the Board members focused on the following questions:

- 1) What health care practitioners should be allowed to order or supervise phlebotomy services?

Dr. Arthur Weaver, chairperson of the Board of Health, stated that he had received a letter from the Nebraska Podiatric Medicine Association which indicated that Podiatrists want to be included with Doctors of Medicine and Surgery and Osteopaths as practitioners that would be allowed to order blood work, and approve protocols and procedures that would provide guidance for those who draw blood.

Carl Maltas, chairperson of the 407 Subcommittee, responded by stating that the Subcommittee members did not have information as to whether phlebotomy was part of the scope of practice of Podiatrists when they formulated their recommendations.

Dr. Steven Bennett, the representative of the Nebraska Podiatric Medicine Association on the Board of Health, explained that phlebotomy is part of the scope of practice of Podiatry, and that Podiatrists need to provide these functions.

It was moved and seconded that the term "physician" defined in the 407 Subcommittee's report to the full Board of Health be redefined so as to include Podiatrists. Voting aye were Allington, Bennett, Christensen, Fitzgerald, Foote, Gilmore,

Maltas, McQuillan, Polzien, Tempero, Timperley, Wahl, and Wempe. Chairperson Weaver abstained from voting. There were no nay votes. The motion passed.

Dr. David Timperley, the representative of the Nebraska Chiropractic Physicians Association, stated that Chiropractors should also be added to the list of practitioners allowed by law to order blood work or approve protocols and procedures for blood work.

Dr. Polzien then stated that the Board should recommend that all practitioners who have blood drawing as part of their scope of practice should be allowed to order blood work. Dr. Timperley expressed agreement with Dr. Polzien's approach, and stated that attempting to develop a "laundry list" of health professions who may order blood work is not the best way to resolve this question.

At this juncture, David Montgomery informed the Board members that there are practitioners who are allowed by their scope of practice to do blood work but who are not allowed to order blood work or supervise other practitioners who draw blood. Mr. Montgomery advised the Board members to include the expression "independent licensed practitioner" in any motion they might make to implement Dr. Polzien's idea.

Dr. Polzien then stated that any independent licensed health care provider should be allowed to order blood work, including optometrists. Dr. Polzien stated that optometrists should have the right to supervise the drawing of blood.

Dr. Bennett responded to Dr. Polzien by stating that it

would not be appropriate to authorize licensed practitioners to order or supervise blood work if such actions are not currently part of their scope of practice.

It was moved and seconded that the Board members recommend that ordering blood work or approving protocols and procedures for blood work be limited to those independent licensed health care practitioners who are allowed to perform such functions by their current scope of practice. Voting aye were Bennett, Christensen, Fitzgerald, Foote, Gilmore, Maltas, McQuillan, Tempero, Timperley, Wahl, and Wempe. Voting nay was Polzien. Margaret Allington abstained from voting. The motion passed.

This ended the discussion on the question of which health care providers can order or supervise phlebotomy services.

- 2) Should the practice of arterial phlebotomy be limited to those who have received special training in this procedure?

Dr. Weaver stated that the public needs the assurance that phlebotomy practitioners have had proper training before they are allowed to perform arterial punctures.

Dr. Wahl responded to these comments by stating that there is no evidence of any harm to the public stemming from the current method of managing phlebotomy services, and that current institutional safeguards are sufficient to provide the public with a safe and effective service.

Carl Maltas stated that each facility has a system of protocols to regulate all aspects of the drawing of blood. Mr. Maltas was concerned that mandating training for this aspect of

phlebotomy would impede flexibility and increase health care costs.

It was moved and seconded that the Board members exclude arterial blood gases from the proposal. Dr. Wahl responded to this motion by stating that this motion would restrict arterial blood gas procedures to physicians and nurses, and that this restriction would have a negative impact on small hospitals and clinics in rural areas of the state.

Roger Keetle, speaking for the Nebraska Hospital Association, stated that there is no need to exclude arterials from the proposal. Mr. Keetle stated that the current system by which all phlebotomy services are regulated includes protocols and procedures that have been jointly developed by the Department of Health and the affected health care facilities.

Dr. Bennett responded to these comments by stating that the motion would not have an impact on the conduct of arterials in health care facilities because it would merely preserve the status quo. At this juncture, Mr. Montgomery informed the Board members that excluding arterial punctures from the proposal would mean that the Attorney General's 1990 ruling on the drawing of blood would eventually have to be enforced vis-a-vis arterial punctures, and that this would mean that only members of licensed health care professions that include phlebotomy as part of the scope of practice could do arterials. Mr. Montgomery added that if the Board members were to recommend this course of action, they should attempt to create some alternative mechanism by which unlicensed personnel could have legal sanction to do arterials.

The motion to exclude arterial blood gases was then withdrawn.

It was then moved and seconded that the Board members approve the recommendation of the 407 Subcommittee with amendments. Voting aye were Allington, Bennett, Christensen, Fitzgerald, Foote, Gilmore, Maltas, McQuillan, Polzien, Simon, Tempero, Timperley, Wahl, and Wempe. There were no nay votes. Dr. Weaver abstained from voting. The motion passed.

### Recommendations of the 407 Subcommittee on the Proposal

The members of the 407 Subcommittee of the Board of Health met on January 8, 1992 at 1:30 p.m. in Conference Room 3A in the Nebraska Department of Health to formulate their advice to the full Board of Health on phlebotomy.

The Subcommittee members focused their attention on the recommendation that emerged from the review of the technical committee which called for the practice of phlebotomy to be exempted from the Medical Practice Act.

During their deliberations, the Subcommittee members discussed the following questions and issues:

- 1) Should there be different statutory requirements for arterial punctures than for venipunctures or capillary punctures?

The Subcommittee members discussed whether these three basic types of blood drawing should be dealt with as subparts within the larger unitary concept that is described by the term "phlebotomy," or dealt with as distinct entities with their own statutory definitions and if deemed appropriate their own distinct standards of practice. This discussion focused on the potential harm associated with arterial punctures.

Regarding arterial punctures, Subcommittee member Dr. Timothy Wahl stated that supervision of phlebotomy procedures by either a physician or a registered nurse ensures that the public is protected from harm, and that there is no need to develop special regulations for this type of phlebotomy.

Dr. Donald Dynek, a member of the technical committee that

reviewed the proposal, stated that, currently, no phlebotomy practitioner performs arterial punctures until they have had considerable experience. He stated that no phlebotomist "starts out" doing arterial punctures.

Dr. Wahl moved that arterial puncture, venipuncture, and capillary puncture be dealt with as the subfunctions of a single unitary concept described by the term "phlebotomy." Bruce Gilmore seconded the motion. The Subcommittee members approved the motion unanimously by voice vote.

- 2) What is meant by the term "physician" in the text of the proposal to exempt phlebotomy from the Medical Practice Act described on pages 4, 16, and 20 of the technical committee report?

The Subcommittee members were informed that there is currently no statutory definition of the term "physician." The Subcommittee members felt that it is important to develop a definition of this term in order to determine who can and cannot supervise the drawing of blood.

Dr. Wahl moved that for the purposes of determining who can supervise the drawing of blood, the Subcommittee members define physician as either a Doctor of Medicine and Surgery or an Osteopath. Dr. Fitzgerald seconded the motion. The Subcommittee members approved the motion unanimously by voice vote.

- 3) What is meant by the term "direction" in the text of the proposal to exempt phlebotomy from the Medical Practice Act described on pages 4, 16, and 20 of the technical committee report?



Spokespersons for public health programs from the Division of Disease Control of the Nebraska Department of Health and from Planned Parenthood expressed concern about the term "direction" as used in the proposal approved by the technical committee. They stated that this term needs to be defined in such a way as to clarify the nature of the "direction" that would be required. They were concerned that the subcommittee members understand that public health programs need a concept of direction that is flexible enough to allow the drawing of blood in noninstitutional situations where there is no access to either a physician or an RN.

Bruce Gilmore stated that the Subcommittee members need to identify the least intrusive way of defining direction. Dr. Dynek stated that in all probability protocols would be developed to meet the needs of public health programs.

Subcommittee member Dr. Duane Polzien suggested that the Subcommittee members consider replacing the term "direction" with an expression that incorporates the concepts of physician or RN orders, and protocols and procedures. Dr. Wahl then moved that the Subcommittee replace the term "direction" with "an order by a physician or registered nurse licensed to practice in the state of Nebraska or protocols and procedures approved by a physician or registered nurse licensed to practice in the state of Nebraska." Dr. Polzien seconded the motion. The Subcommittee members approved the motion unanimously by voice vote.

The Subcommittee members then formulated their recommendations on the proposal to exempt the practice of

phlebotomy from the Medical Practice Act as amended by the Subcommittee. The Subcommittee members formulated their recommendations by taking action on each of the four statutory criteria of the credentialing review program.

Dr. Wahl moved that the proposal as amended satisfies the first criterion, which as applied to this particular proposal asks the Subcommittee members to determine whether the continuation of the current legal situation in the area of phlebotomy services is harmful to the public. Dr. Polzien seconded the motion. Voting aye were Foote, Gilmore, Wahl, Fitzgerald, and Polzien. Carl Maltas abstained from voting. There were no nay votes.

Dr. Wahl moved that the proposal as amended satisfies the second criterion, which as applied to this particular proposal asks the Subcommittee members to determine whether the proposal as amended would create significant new harm to the public. Bruce Gilmore seconded the motion. Voting aye were Foote, Gilmore, Wahl, Fitzgerald, and Polzien. Carl Maltas abstained from voting. There were no nay votes.

Dr. Wahl moved that the proposal as amended satisfies the third criterion, which as applied to this particular proposal asks the Subcommittee members to determine whether the public would benefit from the proposal as amended. Bruce Gilmore seconded the motion. Voting aye were Foote, Gilmore, Wahl, Fitzgerald, and Polzien. Carl Maltas abstained from voting. There were no nay votes.

Dr. Wahl moved that the proposal as amended satisfies the fourth criterion. Janel Foote seconded the motion. Voting aye were Gilmore, Foote, Wahl, Fitzgerald, and Polzien. Carl Maltas abstained from voting. There were no nay votes.

