



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. *Gregg F. Wright*
Director of Health

SUBJECT: Recommendations Regarding Credentialing of Social Workers

DATE: January 3, 1986

Introduction

In preparing my recommendations on the social workers 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

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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 social workers.

Recommendation

The social workers' application sought licensure at three different levels: clinical, masters, and baccalaureate. The Committee's recommendation was for certification at the masters level and for registration with educational prerequisites at the baccalaureate level. In general, I concur with these recommendations.

Discussion

The issue of harm to the public is a crucial one. A small but growing number of persons appear to seek out social work services directly, but the great majority access these services through agencies or other intermediary institutions. Social workers provide a large portion of the psychotherapy services available to the public, often at a significantly lower cost than other providers. The clientele of a social worker is, therefore, frequently poor, less well-educated, socially disadvantaged, and emotionally and psychologically vulnerable. This public may be quite easily harmed by the actions of a poorly trained or incompetent practitioner, and will have a low degree of willingness or ability to pursue redress through the civil court system.

The incidence of reported harmful acts done by social workers is not high. But I am not sure that a very large proportion of such acts are reported, or even recognized. For example, a social worker might fail to inform a client of an available service that would be of great benefit to the client. The client would not be aware that he or she had suffered harm through this act of omission by the social worker, and it almost certainly would not be reported. Also, many clients of social workers are people who, for a number of reasons, are probably unlikely to challenge a social worker or an agency who they feel to be providing a poor quality of service. In short, I feel that there is a significant, if not fully reported, potential for harm resulting from the lack of regulation of social workers.

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I recommend certification and registration rather than licensure as the most cost-effective means of regulation. Certification is a voluntary procedure, but I feel it will adequately protect the public because of the fact that most social workers are employed by agencies or institutions and their clients are persons coming to or referred to the agency. Agencies are knowledgeable employers, and certification and registration will provide an agency with the information it needs to choose whom it employs. An agency may choose not to employ certified or registered social workers, and that fact will be taken into account by courts and other agencies making referrals. The protection of the title "social workers" will serve to assist individuals and agencies in making this choice. I feel that the relatively small number of persons making direct contact with a social worker without the intermediation of an agency represent a group that is better equipped to make an appropriate choice of provider, and thus will benefit from the knowledge of the different level of qualification presented by regulated and unregulated providers of social work services. In short, the freedom of choice allowed by certification and registration seems to offer the best compromise between unregulated practice and licensure.

Licensure would admittedly reduce the risk that an unqualified person could engage in social work. However, licensure by its very nature requires the protection of a field of practice from invasion by unqualified persons. Social work does not appear to present a unified field of practice cohesive enough to be defined as a restricted field of endeavor, and thus licensure is not, in my opinion, a realistic alternative.

I am sensitive to the concerns voiced by some opponents that the requirements proposed for certification and registration will have a disproportionately negative effect upon the entry into the field of the economically and socially disadvantaged. It is my feeling, however, that the establishment and even-handed application of a uniform set of entry requirements for social workers will not in any way prove discriminatory. The requirements proposed are fully consistent with those of other states in which social workers are credentialled. To fix Nebraska's standard at a level significantly different from this national norm would have adverse effects on the ability of Nebraska social workers to gain credentialing by reciprocity in other states.

I further maintain that the establishment of alternate routes of entry into the profession, as proposed by some opponents, is an option that is neither socially nor economically desirable. There is no evidence to support a contention that members of any population group could not meet the standards for regulation established by the proposal. The creation of parallel routes of

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entry to a profession (for example, through formal education or through intensive apprenticeship experience) inevitably leads to differences in skill levels and competencies on the part of practitioners using the same title. Also, a parallel system of entry is more expensive to administer.

The recommendation that registration be accompanied by educational prerequisites is one I strongly support. To create a system of registration that has no prerequisites for entry and no standards of conduct or penalties for violation of these standards, is to mislead the public into believing that a registered occupation is in some manner being regulated by the State, when in fact this is not occurring. My feeling is that no regulation is preferable to a meaningless registration.

As with all reports, I recommend that the Legislature review the attached technical review by the Department of Health for possible adoption as part of the Committee's amendments. I also recommend that the Department's "Proposal for Uniformity in Credentialing" be applied to this proposal and that the resulting legislation be modified accordingly.

GFW:das

Enclosures

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