

## **DIRECTOR'S REPORT ON THE PROPOSAL TO LICENSE SURGICAL FIRST ASSISTANTS**

**January 19, 2016**

**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**

**From: Courtney N. Phillips, MPA  
Chief Executive Officer  
Department of Health and Human Services**



### **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 to license Surgical First Assistants (SFAs) in Nebraska.

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

The technical review committee members recommended approval of the applicants' proposal.

The Board of Health also recommended approval of the applicants' proposal.

## **The Director's Recommendations on the Proposal**

**Criterion one: Absence of a separate regulated profession creates a situation of harm or endanger the health, safety, or welfare of the public.**

I recommend in favor of the applicants' proposal on this criterion as regards SFAs.

Comments:

The issuance of a cease and desist order by the Board of Medicine and Surgery to surgical facilities to the effect that they can no longer employ unlicensed SFAs to perform such medical functions as suturing under medical delegation has the potential to create a bottleneck for access to surgical services in some areas of our state. In these areas there might very well be no Nurse Practitioners (NPs) or Physician Assistants (PAs) to fill the void created by this cease and desist order. Action is needed by the Legislature to remedy this situation.

**Criterion two: Creation of a separate regulated profession would not create a significant new danger to the health, safety, or welfare of the public.**

I recommend in favor of the applicants' proposal as regards SFAs.

Comments:

I see no new harm from the proposal to license surgical first assistants. The applicants were careful to exempt other licensed professionals such as PAs and Nurses who also do this kind of work. They were careful to ensure that such unlicensed groups such as STs would not find their services restricted by the proposal. These actions should address most if not all concerns about any restrictiveness that the proposal might otherwise have created. The surgical first assistant group is small in number, but there will be some costs associated with licensing them.

**Criterion three: Creation of a separate regulated profession would benefit the health, safety, or welfare of the public.**

I recommend in favor of the applicants' proposal on this criterion as regards SFAs.

Comments:

The proposal would benefit the public in the following ways:

- It would help remote rural hospitals bring in more surgeons thereby improving access to care.
- The proposal would provide greater assurance of adequate training for SFAs.
- The proposal would clarify who can and cannot do this work.

**Criterion four: The public cannot be protected by a more effective alternative.**

I recommend in favor of the applicants' proposal on this criterion as regards SFAs.

**Comments:**

The proposal would successfully resolve the problem that generated the cease and desist order issued by the Board of Medicine and Surgery in 2014. The applicants' proposal addresses this issue given that the source of the problem stems from a ruling by the Nebraska Supreme Court which states that only licensed health professionals may act under physician delegation. The applicants' proposal would establish licensure for SFAs if it were to pass.

**Action taken on the entire proposal**

I recommend in favor of the applicants' proposal in regard to SFAs.

**Comments:**

The following represents my final thoughts on this issue:

- The proposal would define who should and should not be performing suturing procedures.
- The proposal holds promise of providing guidance and direction for the procedures in question as well as discipline and better quality control.

Attachment: List of Technical Review Committee members

**LIST OF MEMBERS OF THE SURGICAL FIRST ASSISTANTS' TECHNICAL REVIEW  
COMMITTEE (September, 2014)**

<b>Diane Jackson, APRN</b> Representing the Nebraska State Board of Health	<b>Franklin</b>
<b>Michael F. Kinney, J.D.</b> Lawfirm of Cassem, Tierney, Adams, Gotch, and Douglas	<b>Bellevue</b>
<b>Judith Lee Kissell, PhD</b> Retired Public member on the Board of Dentistry	<b>Omaha</b>
<b>Mary C. Sneckenberg</b> United States Department of Agriculture, Rural Development	<b>Lincoln</b>
<b>Jeff Baldwin, Pharm.D., R.P.</b> Professor of Pharmacy, University of Nebraska Medical Center	<b>Omaha</b>
<b>Benjamin Greenfield, Perfusionist</b> Perfusionist and Director of Operations, Heme Management Associate Professor, UNMC, Omaha	<b>Hickman</b>
<b>James Temme, R.T.</b> The University of Nebraska Medical Center	<b>Omaha</b>