

Report of Final Findings and Recommendations

By The

Technical Committee for the Review of the  
Application for Credentialing by the  
Nebraska Chapter of National Association of Social Workers

To The

Director of Health and the Nebraska Legislature

November 7, 1985



The members appointed by Dr. Wright, Director of Health, to serve on the Social Workers Credentialing Review Technical Committee are as follows:

Bruce Gilmore, P.E. - Chair, Member of Board of Health (Columbus)

Karen Authier, M.S.W., A.C.S.W. - Director of Family Support Services, Boys Town National Institute for Communication Disorders of Children (Omaha)

William Bruns, M.D. - Psychiatrist, private practice (Omaha)

Clifford Fawl, Ph.D. - Chairman of the Department of Psychology, Nebraska Wesleyan University (Lincoln)

Janice Leuenberger - Instructor, Department of Special Education and Communication Disorders, University of Nebraska-Lincoln (Lincoln)

Clarke Mundhenke, D.Min. - Chaplain, Lincoln General Hospital (Lincoln)

Veronica Wilhite, M.S.W. - Veterans Administration Hospital (Omaha)



Summary of the Recommendations  
of the Social Workers' and Professional Counselors'  
Technical Committee on the  
Proposal of the Social Workers

The committee decided to recommend the regulation of social workers, recommending registration for social workers at the bachelor's level and certification at the master's level. The committee concluded that there is harm to the public posed by unregulated practice of Social Work, that the public needs, and can reasonably be expected to benefit from an assurance of initial, and continuing professional ability and that the public cannot be effectively protected by other means in a more cost-effective manner. The committee also recommended that specific educational prerequisites for registration be established, and that the passing of an examination be included as part of the prerequisites for certification.



## Introduction

The Nebraska Credentialing Review Program, established by the Nebraska Regulation of Health Professions Act (LB 407), is a review process advisory to the Legislature which is designed to assess the necessity of state regulation of health professions in order to protect the public health, safety, and welfare.

The law directs those health occupations seeking credentialing or a change in scope of practice to submit an application for review to the Director of Health. At that time, an appropriate technical committee is formed to review the application and make recommendations after a public hearing is held. The recommendations are to be made on whether the health occupation should be credentialed according to the three criteria contained within Section 21 of LB 407; and if credentialing is necessary, at what level. The relevant materials and recommendations adopted by the technical committee are then sent to the Board of Health (after 1985) and the Director of Health for their review and recommendations. All recommendations are then forwarded to the Legislature.

In order to accommodate the health occupations that submitted credentialing legislation in the 1985 session, priority has been given to them so that they may complete the review process before the 1986 legislative session. This accommodation has resulted in a shortened review process in which the technical committee recommendations are sent directly to the Director of Health, bypassing the Board of Health for 1985.

## Summary of the Proposal

The Nebraska Chapter of the National Association of Social Workers seeks licensure for social workers by the State of Nebraska. The proposal

provides for the licensing of social workers at three levels: clinical level Social Work, masters level Social Work, and baccalaureate level Social Work.

According to the proposal, Social Work practice shall mean the professional activity of helping individuals, groups, and families, or larger systems such as organizations and communities, to improve, restore, or enhance their capacities for personal and social functioning and the professional application of social work values, knowledge, principles, and methods in the following areas of practice: information, resource identification and development, and referral sources; preparation and evaluation of psychosocial assessments and development of social work service plans; case management, coordination, and monitoring of social work service plans in the areas of personal, social, or economic resources, conditions, or problems; development, implementation, and evaluation of social welfare programs and policies; treatment and prevention of psychosocial dysfunction, disability, or impairment; and social work consultation and education. In addition, the proposal provides for an expansion of this definition to apply to a licensed clinical social worker in that he or she may engage in the treatment and prevention of psychosocial dysfunction, disability, or impairment, including emotional and mental disorders, and improvement, restoration, or enhancement of interpersonal interactions, intrapsychic functioning, or psychosocial adaptation.

A person licensed to practice Social Work shall not be permitted to engage in measuring and testing of personality or intelligence; accepting fees or compensation for the treatment of disease, injury, or deformity of persons by drugs, surgery, or by any manual or mechanical treatment



whatsoever; prescribing drugs or electroconvulsive therapy; treating organic diseases or major psychiatric diseases, except when practiced in association with and under the general supervision of a licensed physician.

Under the proposal, a person shall be licensed as a clinical social worker upon application if he or she has a doctorate or master's degree in social work from an approved educational program, has had a minimum average of experience of at least three thousand hours in clinical Social Work under the direct or general supervision of a licensed clinical social worker, provides evidence that he or she meets the two criteria above, and satisfactorily passes a written or oral examination prepared by the Board of Examiners in Social Work. The proposal provides for a private, independent, and autonomous practice setting for clinical social workers.

A person shall be licensed as a master social worker upon application if he or she has a master's degree in social work from an approved educational program, provides evidence of his or her professional education, and satisfactorily passes a written or oral examination prepared by the Board of Examiners in Social Work.

A person shall be licensed as a social worker upon application if he or she has a baccalaureate degree in social work from an approved educational program, provides evidence of his or her professional education, and satisfactorily passes a written or oral examination prepared by the Board of Examiners in Social Work. Neither the master's level nor baccalaureate level social worker is allowed to practice in a private, independent, and autonomous setting.

Grandfathering provisions are provided at all three levels if done within two years of the effective date of the proposal, in which applicants

would not have to take the examination. Reciprocity with other jurisdictions that license or credential social workers which maintains standards equal to those in the State of Nebraska is also provided for in the proposal.

The proposal would create the Board of Examiners in Social Work consisting of five members appointed by the State Board of Health. Four of the five members shall be licensed under the proposal in which one shall be a clinical social worker, one a master social worker, and one a social worker. One licensed examiner shall be a member of a racial or cultural minority. The remaining member on the board shall be a consumer. Terms of the board members shall be five years for the licensed examiners and three years for the consumer member. No board member shall serve for more than two consecutive terms.

A license to engage in the practice of social work at all three levels shall expire on April 1 of every odd-numbered year following its issuance or renewal. Between that time, a person licensed under this proposal shall complete at least thirty-two hours of continuing education courses, clinics, forums, lectures, training programs, or seminars. A license may be automatically renewed by payment of a renewal fee established by the Department of Health upon consultation with the board. Licensure fees are also established by the department upon consultation with the board.

The proposal would not prevent qualified members of other professions such as licensed physicians, attorneys, marriage and family therapists, psychologists, psychotherapists, vocational guidance counselors, school psychologists, members of the clergy, court employees or other persons licensed under Chapter 71, Article 1, from doing work consistent of their respective professions; the activities or services of a student intern in

social work that are performed under the direct supervision of a licensed clinical or master social worker; or a person from providing lecture services as a consulting social worker. In addition, the proposal provides that people not licensed under this proposal may provide occasional activities and services of the practice of Social Work if they give the Board of Examiners in Social Work thirty days prior notice, and perform their duties under the direct supervision of a person licensed under this proposal.

Any person who violates any provision of this act shall be guilty of a Class III misdemeanor.

#### Overview of Committee Proceedings

The Social Workers Credentialing Review Technical Committee first convened on July 30, 1985, in Lincoln at the State Office Building. An orientation session was given by the staff which focused specifically on the role, duties, and responsibilities of the committee under the credentialing review process. Other areas specifically touched upon were the charge to the committee, the three criteria for credentialing contained with section 21 of LB 407, and potential problems that the committee might confront while proceeding through the review.

The second meeting of the committee was held on August 21, 1985, in Lincoln at the State Office Building. After study of the proposal and relevant material compiled by the staff and submitted by interested parties between the meetings, the committee formulated a set of questions and issues it felt needed to be addressed at the public hearing. Contained within these questions and issues were specific requests for information that the committee felt was needed before any decisions could be made.

The committee reconvened on September 18, 1985, in Lincoln at the State Office Building for the public hearing. Proponents, opponents, and neutral parties were given the opportunity to express their views on the proposal and the questions and issues raised by the committee at their second meeting. Interested parties were given ten days to submit final comments to the committee.

The committee met for the fourth time on October 2, 1985, in Lincoln at the State Office Building. After studying all of the relevant information concerning the proposal, the committee then formulated its recommendations upon the three criteria found in Section 21 of LB 407. These criteria are as follows:

#### Criterion 1

Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument.

#### Information Provided by the Applicant Group

According to testimony presented at the public hearing by the proponents of the proposal, the current unregulated state of Social Work practice deprives the client of the right of recourse in the event of erroneous care, incompetent care, or in the case of the omission of care. (p. 4 of the Transcript of the Public Hearing of the Social Workers' and Professional Counselors' Technical Committee.)

The current unregulated state of Social Work gives the client no method by which he or she can assess the qualifications of social work providers. In the opinion of the proponents, the clients of social workers are extremely vulnerable. Most people who use the services of a social

worker do so because of some crisis or trauma that threatens their psychological well-being. They do not have the time, nor are they in any state of mind to adequately assess the qualifications of the provider. Clients also do not have easy access to the necessary information with which to evaluate the credentials of providers. (Material submitted by Judy Tombrink, MSW, for the Public Hearing.)

According to the application (pp. 24 to 26) and the legislative hearing testimony (pp. 3 and 8) the following are the types of harmful practices that the current situation allows to go uncontrolled or unregulated:

1. Delays caused by incompetent practice
2. Inappropriate referrals made by unqualified or incompetent practitioners
3. Inaccurate assessment of family problems by unqualified or incompetent practitioners
4. Inaccurate reporting on a family or societal situation to a human service agency or court of law by unqualified or incompetent practitioners
5. Improper use of clinical forms of intervention (individual, group, conjoint marital, and family therapy) by unqualified or incompetent practitioners
6. Misrepresentation of academic credentials by unqualified practitioners.

#### Information from Other Sources

The opponents of the proposal state that the proponents have not adequately demonstrated that harm to the public is occurring because of unregulated practice. The Omaha Association of Black Social Workers stated

that social work practitioners use no inherently dangerous implements, substances, devices, or techniques that could put the consumer at risk. They add that there have been only six inquiries initiated concerning Social Work practice in the last ten years. (Position Statement of the OABSW to the Technical Review Committee, September 26, 1985).

In testimony at the public hearing of the Social Workers' and Professional Counselors' Technical Committee, other opponents of the proposal stated that the proponents have not adequately documented that harm has been done to the public because of unregulated practice of Social Work. Opponents testified that information provided by proponents has been anecdotal in nature. (pp. 88-94 of the Transcript of the Public Hearing of the Social Workers' and Professional Counselors' Technical Committee.)

The opponents state that the vast majority of social workers are not principally rendering services to individuals as private practitioners. Most are employed by public or private agencies. Given the scarcity of complaints against social workers, the opponents assert that these agencies must be doing a good job of protecting the public from harm. (Position Statement of the OABSW to the Technical Review Committee, September 26, 1985.)

#### Analysis and Final Committee Findings

The committee decided that there is harm to the public because of the unregulated practice of Social Work.

#### Criterion 2

The public needs, and can reasonably be expected to benefit from, an assurance of initial and continuing professional ability.

### Information Provided by the Applicant Group

The proponents of the proposal state that harm to the public can be lessened by requiring that social workers have extensive academic training in their field. They believe that the abuses that they identified under criterion one could be ameliorated by the establishment of mandatory educational prerequisites for all social workers. Their proposal, if passed, would prevent those whom they deem unqualified from doing Social Work. Minimum educational standards for all social workers will serve to protect the public from harm. The proponents believe that there is a positive correlation between high academic standards and competence. (pp. 7-13, and p. 26 of the Application.)

### Information from Other Sources

The opponents of the proposal state that the creation of mandatory educational standards cannot assure quality or competence in the provision of Social Work services. Regulation can mandate that certain arbitrary educational standards be met, but this cannot assure that performance on the job by social workers will be improved. Competence and quality are subjective phenomena, and as such cannot be improved by arbitrary, objective standards. The opponents dispute the contention that there is linkage between educational standards and performance on the job in the field of Social Work. (The Position Statement of the Anti-Licensure Coalition.) Some opponents state that experience alone is sufficient training to be a social worker, and that to require extensive academic training is unnecessary. (OABSW Memorandum to the Technical Committee, September 27, 1985.)

### Analysis and Final Committee Findings

The committee determined that the public needs and can reasonably be expected to benefit from initial and continuing professional ability.

#### Criterion 3

The public cannot be effectively protected by other means in a more cost-effective manner.

#### Information Provided by the Applicant Group

In the application, the proponents discuss a series of alternatives to state regulation, some of which are already in place. The criminal statutes can be used to seek redress. However, unless an occupational group is credentialed or a practitioner violates a criminal statute the client has no recourse. Another alternative is the regulation of business employers rather than employee practitioners. However, this is not very effective due to the fact that the decisions of social workers are carried out independently, even in agencies. Because of this, it is difficult to develop regulations that make business employers responsible for the conduct of the social workers they employ. The regulation of Social Work practice in agencies licensed by the State is another alternative. However, it also has limitations in the opinion of the proponents. For instance, there are no regulatory or statutory provisions in the State of Nebraska which define standards of Social Work practice for all human service entities. There are no regulatory or statutory penalties in the State of Nebraska for misrepresentation of academic credentials. There are inconsistent regulatory provisions regarding evaluation of Social Work practice.



Another alternative discussed by the proponents is to mandate that agencies employ individuals with only certain types of degrees. However, employers have been unwilling to do this because personnel costs increase when the talent pool is limited.

Another approach is to mandate certain standards of Social Work practice. However, agencies have been reluctant to do this. Differences between agencies regarding types and levels of social services make this difficult. The resulting standards would not clearly define what the agencies needed to do. In addition, increased regulation of services usually increases costs, and there is not agreement on which state agency or agencies should do the reviewing. (pp. 22-24; 30-32 of the application.)

The proponents state that their efforts at internal regulation, such as their participation in a national Social Work Code of Ethics, have not been sufficient to curb abuses. Membership in Social Work associations is voluntary. Expulsion of unscrupulous practitioners from such associations does not in any way impair their ability to continue doing Social Work. (p. 27 of the application.)

The proponents state that their proposal would not place an undue burden on the taxpayers. The costs of administering the proposal would be paid for by licensure fees. (p. 52 of the application.)

#### Information from Other Sources

Some opponents of the proposal state that the proposal will be far more costly to the citizens of Nebraska than the proponents have indicated. If passed, the proposal will assist those in the private practice of Social Work to increase their incomes while pricing part of the consuming public, the poor, out of the market. The opponents state that a complex bureaucracy will be created if the proposal becomes law, ultimately

requiring staffing, and causing an increase in licensing fees. (Position Statement of the Anti-Licensure Coalition.)

Other opponents of the proposal assert that if it became law, it would restrict the job market in Social Work. They state that the proposal, if passed, would exclude many qualified people from employment in human service agencies. Many jobs previously open to various disciplines could be restricted to licensed social workers. For those who would qualify as social workers, licensure fees and periodic reexamination would impose a burden. (Position Statement of the Anti-Licensure Coalition.)

Other opponents are concerned about the impact of this proposed legislation on social workers from minority backgrounds. These practitioners have traditionally entered the profession through on-the-job work experience. However, the proposal would create specific academic qualifications for entry level positions. The opponents state that this will be an impediment to the entry of minorities and the poor into the field of Social Work. (Position Paper of the OABSW, September 27, 1985.)

The opponents believe that if the proposal becomes law, it could eliminate minority social workers from the field entirely, a development that would have a negative impact on minority communities.

The opponents see little to be gained, but a great deal to be lost, if this proposal becomes law. The social and economic costs cancel out any improvements in quality of services that might result from the proposal's passage. The opponents do not believe that quality can be legislated, but increased costs to the public can be, and these increased costs often are the result of regulatory legislation. The proponents believe that their proposal is worth the costs that might result, because they believe that it will improve the quality of Social Work services in Nebraska. The

proponents see a positive relationship between higher educational standards and improved job performance. In general, the opponents do not perceive such a relationship.

#### Analysis and Final Committee Findings

The committee decided that the proposal satisfied the third criterion, namely that a less cost-effective means of protecting the public other than state regulation does not exist, and that the proposal does address the maladies identified by the proponent group.

#### The Discussion of the Appropriate Level of Credentialing

##### Information Provided by the Applicant Group

The proponents are seeking a level of credentialing that will assure the public that those who call themselves social workers are in fact regulated by the State of Nebraska in some way. The proponents believe that licensure would best serve this goal. However, certification, if it could be established so as to ensure total title protection for the title "social worker," would also be acceptable. Either of these two modes of regulation would serve to provide some protection for clients from unqualified or unscrupulous practitioners. In the case of total title protection, no one could call himself a social worker unless he or she were certified by the State. In the case of licensure, the entire scope of practice would be regulated. Only those persons with a license from the State could do Social Work. (p. 34 of the Public Hearing testimony of the Social Worker and Professional Counselor Technical Committee.)

The proponents argue that their clients are extremely vulnerable since they only seek the services of a social worker when faced with a crisis. They are seldom in any state of mind to inquire as to the qualifications of

social work practitioners. Consequently, they must be protected by the State from unqualified practitioners. Any level of credentialing that is purely voluntary in nature is objectionable to the proponents.

The proponents are asking for licensure at three different levels, at the clinical level, at the master's level, and at the bachelor's level. The latter would require a baccalaureate degree in Social Work and the passage of a written or oral examination prepared by a Board of Examiners in Social Work. Licensure at the master's level would require a master's degree in Social Work and the passage of an appropriate examination. Licensure at the clinical level would require at least a master's degree, the passage of an appropriate examination, and at least three thousand hours of clinical social work experience.

#### Information from Other Sources

Some of the opponents of licensure expressed their support for lower levels of credentialing such as Registration and Certification. The Nebraska Medical Association recommended that the technical committee consider Registration for bachelors and masters level social workers and Certification for the clinical level of the profession. The NMA stated that these levels would adequately protect the public, and yet do so in a more cost-effective manner than would licensure.

Licensure is in their view not necessary given the relatively slight danger to the public that they perceive in Social Work practice. The public can be protected adequately by less restrictive and less costly modes of regulation. (Position Paper of the Nebraska Medical Association.)

Opponents of the current legislative version of the proposal (LB 286) focus much of their criticisms on the three-tiered level of credentialing

in the bill. The OABSW and the NMA assert that at most only two levels of credentialing are appropriate, if credentialing is to be done at all.

The OABSW recommends that only one license be given to all practitioners who receive the same education and pass appropriate examinations. Any further credentialing should be regulated by the profession itself. (Position Paper of the OABSW, September 27, 1985.)

Other social workers advise that only one level of credentialing is necessary, and that should be at the master's level. (pp. 88-94, Transcript of the Public hearing before the Social Workers and Professional Counselors Technical Committee.)

Those who criticize the proposal for its three-tiered level of credentialing assert that the distinctions between clinical social workers and master's level social workers are not sufficient to justify separate, distinct licenses for each. Some critics argue that all master's level social workers should be held equally accountable to the same standards. Uniformity of expectations should be the state's concern. (pp. 88-94, Transcript of the Public Hearing before the Social Workers and Professional Counselors Technical Committee.)

The NMA states that a multiple-leveled system of credentialing discourages the development of clear-cut criteria to identify Social Work. They also criticize the high cost and complexity associated with administering such a system. (Position Paper of the Nebraska Medical Association, September 27, 1985.)

#### Analysis and Final Committee Findings

The committee decided that licensure is not the least restrictive alternative method of regulation consistent with the protection of the public. Then the committee decided to recommend certification of Social

Work at the master's level and registration of Social Work at the bachelor's level. The committee recommended full title protection under certification at the master's level and under registration at the bachelor's level, which means that no one but a certified or registered social worker could use the term "social worker" as part of his or her job description. The committee also recommended that minimum educational prerequisites be established for registration at the bachelor's level.

The committee was not convinced that Social Work has defined its scope of practice specifically enough for licensure to be an appropriate level of regulation. However, in recommending certification at the masters level, the committee wanted to be sure to recommend a type of regulation that would provide meaningful protection for the public. This is the reason why the committee decided to recommend certification with full title protection. If this were adopted, no one could use the title "social worker" unless he or she were certified or registered by the state. The decision to recommend minimum educational prerequisites for registration was also motivated by a desire to recommend meaningful regulations.

#### Other Committee Recommendations

The committee recommended that the Department of Health investigate whether LB 407 would allow full title protection under certification and educational prerequisites for registration. If it is found that this is not permissible, the committee recommended that the Department seek to amend the Nebraska Regulation of Health Professional Act to make provision for these options. The committee also recommended that the passing of an examination be included as part of the prerequisites for certification.

## Final Approval

This report was approved by a vote of 5 in favor, 1 opposed, and 1 abstention at the fifth meeting of the committee on November 6, 1985.

