

DIRECTOR'S REPORT ON THE PROPOSAL TO LICENSE DIALYSIS TECHNOLOGISTS

Date: January 30, 2017

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: Thomas L. Williams, MD 
Chief Medical Officer
Director, Division of Public Health
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 dialysis technologists in Nebraska.

Summary of Technical Committee and Board of Health Recommendations

The technical review committee members recommended in favor of the applicants' proposal as amended.

The Board of Health recommended against the applicants' proposal as amended.

I concur with the Board of Health's recommendation against licensing dialysis technologists for reasons that I have clarified below.

The Director's Recommendations on the Proposal

Action taken on the four criteria:

Criterion one: Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public.

Action taken: I recommend against the proposal on this criterion.

Comments: Information presented by the Nebraska State Board of Nursing during the November 14, 2016 bimonthly meeting of the Nebraska State Board of Health regarding the role of dialysis technologists' in the provision of patient care has clarified that it is not necessary to license this group. Previously, concern was expressed by dialysis technology representatives that their services were in jeopardy because of a 2015 action by the Board of Nursing that in effect 'retired' a Board of Nursing opinion that had allowed dialysis technologists to provide services under nursing delegation despite the fact that dialysis technologists are unlicensed providers, a situation which some experts believe is contrary to the nursing statute which they argue prohibits nurses from delegating nursing functions to unlicensed providers such as dialysis technologists, for example. The information provided to the Board of Health by Board of Nursing representatives clarified that the aforementioned prohibition on nursing delegation to unlicensed providers pertains only to complex medical procedures, and that dialysis technologists are never allowed to perform complex medical procedures. The services and procedures they are allowed to perform are routine in nature. Thus, nurses may delegate to them without violating prohibitions pertinent to delegation to unlicensed providers. Given this information it has become clear to me that there is no need to license dialysis technologists.

Criterion two: Regulation of the profession does not impose significant new economic hardship on the public, significantly diminish the supply of qualified practitioners, or otherwise create barriers to service that are not consistent with the public welfare and interest.

Action taken: I recommend against the proposal on this criterion.

Comments: Requiring that dialysis technologists become licensed would impose a significant financial burden on these providers, a burden that cannot be justified in terms of public health, safety, or welfare, given that there is no evidence of harm to the public from their services under the current situation.

Criterion three: The public needs assurance from the state of initial and continuing professional ability.

Action taken: I recommend against the proposal on this criterion.

Comments: Available information does not support the contention that the State of Nebraska needs to impose additional assurances of professional ability beyond that which

already are in place to protect the public. All currently practicing dialysis technologists have already passed a national certification examination to demonstrate competency to provide their services safely and effectively, for example.

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

Action taken: I recommend against the proposal on this criterion.

Comments: Given that no public health related problem was identified in the current practice situation of dialysis technologists during the review of the applicants' proposal it is clear that there is no need to license the members of this profession. However, consideration should be given to the idea of establishing a registry for dialysis technologists for the purpose of easing concerns of members of the nursing profession regarding delegation to providers without any credentialing. By registry I mean a registry as defined in the Nebraska Regulation of Health Professions Act referred to in the opening paragraph of this report.

Action taken on the entire proposal: I recommend against approving the proposal.

Comments: Information provided by the Nebraska State Board of Nursing has clarified that dialysis technologists can continue to provide their services as they always have without having to become licensed, and that the concern raised by the applicant group that without licensure their services are in jeopardy are not well-founded.