

FINAL REPORT OF FINDINGS AND RECOMMENDATIONS

BY THE
NEBRASKA BOARD OF HEALTH

ON THE APPLICATION FOR ATHLETIC TRAINERS
TO THE DIRECTOR OF HEALTH
AND THE
NEBRASKA LEGISLATURE

JANUARY 29, 1996

The Review of the Full Board of Health
on the Athletic Trainer Proposal

Comments by the Vice-Chairperson of the 407 Committee and the
Chairperson of the Technical Committee

Patricia Kuehl, Board member and vice-chairperson of the 407 Committee, briefly summarized the 407 Committee's review of the athletic trainer proposal. Board member Kuehl informed the Board that no convincing evidence was presented to indicate that there is harm to the public inherent in the current practice situation of athletic trainers, and that the committee members were not convinced that the proposal could solve the problems that the applicants discussed in their application. Janel Foote, chairperson of the technical committee, presented a brief overview of the technical committee's review of the proposal, and commented that the technical committee was also not convinced that the proposal would effectively address the access problems identified in the proposal. Board member Foote also stated that the technical committee members were concerned that the proposal would create significant potential for new harm to the public.

Comments by Applicant Group Representatives

Terry Maly, P.T., A.T.C., presented comments on behalf of the applicant group. Mr. Maly stated that amendments submitted by the applicant group during the technical committee review have addressed the concerns about the proposal creating potential for new harm to the public. Mr. Maly stated that these amendments

physical therapy on the Board stated that the education and training of athletic trainers is not well-founded in pathology, and that this would be a concern if athletic trainers were allowed to treat the injuries of members of the general public.

Board member and technical committee chairperson Janel Foote requested that the representatives of the Department's Division of Professional and Occupational Licensure and representatives of the applicant group meet to discuss the question of whether or not athletic trainers must have a contract with a school or an athletic organization in order to provide their services. Board member Foote informed the Board that this question emerged several times during the review, and that the applicant group has repeatedly claimed that the Department has been requiring evidence of a contract as a prerequisite for the provision of services. Ms. Foote stated that this matter needs to be clarified.

Board member Knortz moved and board member Dvorak seconded that the Board of Health endorse the report of its 407 Committee on the proposal which was to recommend against approval of the proposal. Voting aye were Balters, Bieganski, Dvorak, Foote, Gerrard, Hirschbrunner, Ihle, Knortz, Kuehl, Polzien, Wempe, and Wooden. Dr. Weaver abstained from voting. There were no nay votes. By this vote the Board members endorsed the report of their 407 Committee which was to recommend against approval of the proposal.

The Advice of the 407

Committee of the Board to the Members of the Full Board of Health on the Athletic Trainer Proposal

Overview of the Technical Committee Review

Board member and 407 Committee member Janel Foote, chairperson of the Athletic Trainer Technical Review Committee, presented a brief overview of the work of her committee. Board member Foote thanked the members of the committee for their hard work and attention to the public good. Board member Foote informed the 407 Committee members that the technical committee members were not convinced that the applicants' proposal would improve access to athletic trainer services or that it would improve the chances that athletic trainers would receive third-party reimbursement for their services. Board member Foote also stated that the technical committee members were not convinced that athletic trainers have sufficient background in therapeutics to treat the athletic injuries of persons from the general public. Board member Foote added that some of the questions that the committee members asked the applicant group to answer at the public hearing were not answered.

Testimony Presented by the Applicant Group

Steve Brace, A.T., President of the Nebraska State Athletic Trainers Association, presented testimony on behalf of the applicant group. Mr. Brace stated that the proposal has been

that there are several policy options that could be chosen to address this problem including legislation that would require all schools to employ an athletic trainer, but that there is only one option that could both solve the problem and be cost-effective for Nebraska's schools, and that this option is the applicants' proposal. Mr. Brace continued by stating that the proposal would address the access problem in question by paving the way for third-party reimbursement for athletic trainer services, but that without the proposal such reimbursement will not happen.

Mr. Brace then read from letters from the athletic trainer on the Board of Healing Arts in Missouri and from a member of the Missouri Athletic Trainers' Association pertinent to the issue of reimbursement for athletic trainer services. These letters indicated that athletic trainers in Missouri receive third-party reimbursement for their services.

Mr. Brace then stated that there is also harm inherent in the fact that there is currently no regulations in place to ensure that members of the general public receive proper treatment of their athletic injuries, and that the proposal would create the framework for some kind of care in this area of sports injury.

Discussion on Applicant Testimony by the 407 Committee Members

Committee member Duane Polzien, O.D., asked Mr. Brace whether athletic trainers are allowed to provide services for injured athletes outside of the school setting. Mr. Brace

commented that the proposal would make athletic trainers more versatile employees than they are currently due to the fact that they would no longer be required to be under contract to a specific institution or facility in order to provide services.

Committee member Patricia Kuehl asked Mr. Brace to compare the educational backgrounds of athletic trainers and physical therapists. Mr. Brace responded by stating that physical therapy is a masters-level program and that athletic trainer programs are basically bachelors-level programs. Mr. Brace added that athletic trainers also participate in internship programs that comprise as much as 1500 clock-hours.

Committee member Kuehl then stated that the applicants need to provide more statistical information from states in which athletic trainers have a scope of practice similar to that which they are proposing in order to show how such a scope of practice actually addresses the kinds of access problems described by the applicant group. Committee member Kuehl stated that information on third-party reimbursement in other states does not in and of itself tell us whether such reimbursement has improved access to athletic trainer services in rural areas, for example. This committee member also stated that the applicants have not clearly shown that there is harm inherent in the current situation of the profession.

Mr. Ronspies stated that the only way to totally solve the problem of access stemming from the geographical imbalance in the distribution of athletic trainers would be for the Legislature to

Testimony Presented by the Nebraska Physical Therapy Association

Wayne Stuberg, P.T., President of the Nebraska Physical Therapy Association, presented testimony in opposition to the proposal. Mr. Stuberg stated that the current proposal which allows athletic trainers to treat the injuries of members of the general public increases the risk of new harm to the health and welfare of the public given that the education and experience of athletic trainers is focused exclusively on the treatment of healthy athletes, rather than on the population as a whole. Mr. Stuberg stated that members of the general public often have preexisting medical conditions that complicate the treatment of their injuries, and that athletic trainers are not sufficiently trained to deal with these situations.

Mr. Stuberg stated that the current proposal would not facilitate third-party reimbursement for athletic trainers because such reimbursement is linked to outcome measures pertinent to the efficacy of the services of their profession, rather than being linked to the achievement of a particular scope of practice for their profession. This testifier also stated that the proposal would not improve accessibility of their services to athletes in schools because these access problems stem from financial constraints underwhich these schools must operate, rather than from problems with the current scope of practice of athletic trainers.

Ron Hruska, P.T., submitted written comments to the committee in which he stated that the current proposal raises

to protect the public from new harm. Mr. Stuberg stated that making physician referral the key to public protection would probably work in most situations, but that there are physicians who are not familiar with athletic trainers as a profession, and it is in these situations where this method of public protection could break down. Mr. Stuberg added that public protection is only one of the problems of the current proposal, and that questions regarding what if any benefits the proposal would bring have still not been answered clearly.

Final Discussion on the Proposal by the 407 Committee Members

Committee member Cullen and committee member Kuehl commented that the amended version of the proposal has successfully addressed concerns about the potential for new harm from the proposal. Committee member Foote commented that the applicant group has not demonstrated how their proposal would solve the access problems that they have identified. Committee member Foote also stated that the focus of athletic trainer services has always been on injury prevention rather than on the treatment of injuries, and that the proposal would have the effect of redirecting the focus of the profession on follow-up care and treatment of injuries. Committee member Foote expressed the concern that athletic trainer education does not adequately prepare them for this new role.

Committee member Kuehl moved and committee member Polzien seconded that the proposal satisfies the third criterion which states:

Enactment of the proposed change in scope of practice would benefit the health, safety, or welfare of the public.

Voting aye were Kuehl and Polzien. Voting nay were Foote, Fitzgerald, and Cullen. There were no abstentions. The motion failed which means that the proposal was not upheld on the third criterion.

Committee member Cullen moved and committee member Kuehl seconded that the proposal does not satisfy the fourth criterion which states:

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

Voting aye were Foote, Kuehl, Fitzgerald, Polzien, and Cullen. There were no nay votes or abstentions. The motion passed which means that the proposal was not upheld on the fourth criterion.

The 407 Committee members made no additional recommendations.