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May 19, 2010

Gordon Winters, Opinion Page Editor
Lincoln Journal Star
P.O. 81689
Lincoln NE 68501

RE: Nancy Hicks: "Language hangs up state OK"

Dear Mr. Winters:

In the Saturday, May 15, 2010 edition of the Lincoln Journal Star, an article titled "Language hangs up state OK" by Nancy Hicks states, "Two words – sexual orientation – still are holding up state approval of regulation changes." This statement is very misleading. In fact both those opposing the current proposal and those supporting agree to the inclusion of "sexual orientation" in anti-discrimination clauses. Current acceptable licensing regulations already contain the anti-discrimination provision in the Code of Ethics.

Our opposition to the new regulatory proposal is based on the fact that the proposal endorses a choice by a behavioral health provider to refuse services to select classes of patients "for any reason," and a choice to avoid a referral based on a complete and accurate analysis of a client's behavioral health problem. The referral choice is designed to meet the needs of a provider, in contrast to a referral that meets the needs of the client.

The proposal violates a fundamental principle of both our state and national codes of ethics: Do no harm. The purpose of our current Code of Ethics is to protect the welfare, safety, and human rights of all clients, not simply those chosen by providers who satisfy the "religious and moral" claim of providers. According to the American Psychological Association attorneys, The National Association of Social Workers, and the American Association for Marriage and Family Therapy, no other state, Canadian province, or territorial licensing agency has considered any similar proposal.

Dr. Joann Schaefer, State chief medical officer, is quoted in the Journal Star article as saying that the three licensing boards for behavioral health services reached a "compromise" at a winter private meeting. This statement is untrue. The licensing boards never agreed to accept any "compromise" proposal. All of our professional associations have continuously and unambiguously opposed all proposals to limit needed mental health services to select clients.

Unfortunately the Board of Mental Health Practice, which governs licensed mental health practitioners, has repeatedly reversed itself in contrast to state professional associations. They approved language that all the professions agreed to at their July 2009 meeting and then on March 5, 2010 reversed themselves to appease the Nebraska Catholic Conference and the Department of Health and Human Services.

Media has reported that the rejection of clients is based on a client's sexual orientation. Clearly, sexual orientation appears to be the primary concern of the proposals, but, according to the Nebraska Catholic Conference letter to the Department of Health and Human Services (May 13, 2009), "Our concerns focus particularly, but not necessarily exclusively, on the categories of religion, sexual orientation, and gender identity." Thus the proposal opens up a Pandora's box of potential rejections, prejudices, and lack of compassion for a potential host of consumer victims.

Pressure to force the boards to accept a morally unacceptable proposal has existed for two years through a refusal by the Nebraska's Department of Health and Humans Services to advance other regulatory proposals needed by licensing boards. DHHS denies this is coercion, but the appearance of coercion is undeniable. According to the Lincoln Star (May 15, 2010), "Schaefer can refuse to send on any regulation package that doesn't have compromising language, effectively stopping any licensing board from modifying its rules."

It is imperative that licensing regulations protect the behavioral health needs of all clients, and we urge the denial of the proposal currently adopted by the Board of Mental Health Practice that limits this protection.

Sincerely,

Alan M. Green, Executive Director
Mental Health Association of Nebraska

Terry Werner, Director
Nebraska Chapter of the National Association of Social Workers,

Anne Buettner, Legislative Chair
Nebraska Association of Marriage and Family Therapy

Dan Ullman, President
Nebraska Psychological Association

James Cole, Board of Director
Nebraska Psychological Association