

STATE OF NEBRASKA

DEPARTMENT OF HEALTH

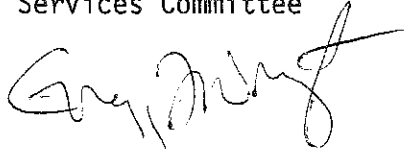
KAY A. ORR
GOVERNOR

GREGG F. WRIGHT, M.D., M.Ed.
DIRECTOR



MEMORANDUM

TO: Senator Don Wesely
Chairman
Legislature's Health & Human Services Committee

FROM: Gregg F. Wright, M.D., M.Ed.
Director of Health 

SUBJECT: Proposed Regulatory Changes for Care Staff Members

DATE: February 2, 1988

To complete the final report on the proposed change in scope of practice for care staff members, the Department has reviewed the application material, the information presented at the public hearing, the reports from both the technical committee and the Board of Health, and the Department's current regulatory authority and capability.

RECOMMENDATIONS

In their application, the Nebraska Health Care Association sought a change in scope of practice for care staff members so as to add the administration of oxygen by means of an oxygen concentrator to their current authorization to administer oral and external medications. Both the technical committee and the Board of Health recommended in favor of the proposal, with the following provisions: that care staff members be limited to the use of a nasal cannula as opposed to an oxygen mask; and that they administer no more than four liters of oxygen per minute to any patient.

Both review bodies stated that care staff members should not use oxygen masks because they lack the necessary training to protect the patient from the hazards associated with the use of oxygen masks, particularly carbon dioxide retention. A flow of 4 liters per minute is insufficient to allow proper use of an oxygen mask.

Both review bodies also stated that prohibiting care staff members from administering more than four liters of oxygen per minute to patients is also needed to protect patients from harm since oxygen is a drug, care staff members lack the training necessary to make judgments about the amount of oxygen that is appropriate for any particular patient. Both review bodies recommended that these restrictions be specifically included in statute rather than included in rules and regulations only.

The Department concurs with the technical committee and the Board of Health on all of these recommendations.

MEMO-Senator Don Wesely
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DISCUSSION

I agree with the technical committee and the Board of Health that the current situation as regards the provision of oxygen services in Nebraska imposes an unnecessary hardship on some of those patients who need these service.

The proposed change in scope of practice would benefit those persons who receive the above-mentioned services, provided that the proposal does not create new sources of harm. In my judgment, the restrictions on oxygen administration by care staff members recommended by the Board of Health and the technical committee are sufficient to protect the public from harm that might otherwise have resulted from the proposed change in scope of practice.

I agree with the technical committee and the Board of Health that their recommended restrictions on oxygen administration by care staff members be placed specifically in statute, rather than in the rules and regulations only. Statutorily-based restrictions would provide a more firm base for administration than would placing the restrictions in rules and regulations only. Also, restrictions contained in rules and regulations are no more flexible than are statutory restrictions. The former have the force of law when they are duly promulgated.

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