Report on the Preliminary Findings and Recommendations

By the

Technical Committee for the Review

of the Application for Special Care Services Providers

by ARC - Nebraska

To the

Nebraska Board of Health

Director of Health

and the

Nebraska Legislature

January 9, 1990

The members appointed by Gregg F. Wright, M.D., M.Ed., Director of Health, to serve on the Special Care Service Provider Technical Committee are as follows:

Arthur A. Weaver, D.O. (Chairman), private practitioner (Omaha)

Laurie A. Andrews, L.P.N., Director of Residential Care Facility, Riverside Lodge (Grand Island)

Audrey Bakula, Family Services Coordinator, Region V Mental Retardation Services (Lincoln)

Ginger Clubine, Executive Director of ARC - Nebraska (Lincoln)

Nancy Murray, R.N., Director of Nurses, Home Therapy Program, Swanson Center for Nutrition (Omaha)

Marcy Wyrens, R.R.T., Supervisor, Respiratory Care Services, Lincoln General Hospital (Lincoln)

Phyllis Smith, Certified Hearing Officer (Omaha)

INTRODUCTION

The Nebraska Credentialing Review Program, established by the Nebraska Regulation of Health Professions Act (LB 407) in 1985 is a review process advisory to the Legislature which is designed to assess the necessity of the state regulation of health professions in order to protect the health, safety, and welfare of the public.

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 four criteria contained within section 71-6221 Nebraska Revised Statutes; 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 and the Director of Health for their review and recommendations. All recommendations are then forwarded to the Legislature.

SUMMARY OF COMMITTEE RECOMMENDATIONS AND CONCLUSIONS

The committee members decided not to recommend approval of the proposal. However, the committee recommended that special care services be provided by home health aides trained by either physicians or nurses in accordance with a baseline curriculum that would be established jointly by the Department of Health and the Board of Nursing. The committee recommended that the Board of Nursing submit a list of functions to be performed by the specially trained home health aides to the Department of Health for consideration. The committee recommended that a formal mechanism for the monitoring and supervision of special care personnel be established jointly by the Department of Health and the Board of Nursing. Under this concept, there would be no change in nursing scope of practice. An exception to the nursing statute would be made for home health aide caregivers to the extent that one already exists for current home health aide services.

SUMMARY OF THE APPLICANTS' PROPOSAL

The applicants in their proposal seek a change in nursing scope of practice so as to remove special care functions from the protection of the nursing licensing statute, and thereby allow unlicensed special care providers to provide such functions to clients.

The proposal would require that special care providers receive at least two hours of training in the provision of specific services from either a physician or a registered nurse. This training would be presented in such a way that the training each caregiver received would be geared to the specific needs of each individual client. Both the content and the duration of this training would be determined by the physician or registered nurse providing the training. The proposal does not provide a mechanism for the monitoring and supervision of special care providers.

ISSUES RAISED BY THE PROPOSAL

I. What is the harm inherent in the current situation of special care services?

Applicant Group Comments

The applicants stated that an administrative interpretation by the Department of Health of the parameters of the nursing scope of practice in the area of special care services has had a "jarring effect" on the lives of many children and adults who have disabilities. The applicants stated that in December, 1988, the Department of Health revoked the license of a group home in Mitchell, Nebraska because the group home in question had allowed unlicensed personnel to perform gastro-intestinal tube-feeding, which the Department said was a violation of the nursing scope of practice. The applicants stated that this action threatens to undermine the ability of those who have mental and physical disabilities to live in their communities outside of institutional settings. (The Applicant's Proposal, p. 17)

The applicants stated that requiring licensed personnel to provide special care services would impose a prohibitive financial burden on those families that want to find a way to provide a home environment and the benefits of an education to family members who have disabilities. The applicants stated that many of these families cannot afford in-home nursing services, and that members who have disabilities would have to relocate from community settings to institutional or medical settings where public funding for special nursing care is available. The applicants stated that such a situation makes the goal of integration much more difficult to achieve and that it is not consistent with current

public policy which has encouraged normalization and mainstreaming of people with disabilities. (The Applicant's Proposal, p. 17)

The applicants stated that the Department's ruling directly contravenes the intent of the home and community-based Medicaid waiver, which was devised to facilitate deinstitutitonalization and normalization by allowing federal dollars to fund clients that move from institutional settings to community settings. The applicants stated that this ruling could stall future deinstitutionalization efforts by preventing persons with medical-related disabilities from moving into the community, and by preventing them from living in home-like environments. (The Applicant's Proposal, pp. 17-18)

The applicants stated that the current restrictions on special care are not based upon a need to protect the health and safety of the public, and that the procedures associated with the provision of special care services can be safely and effectively provided by unlicensed personnel. The applicants added that since the Department ruling pertains only to persons with disabilities, it raises the question of whether or not it constitutes a violation of the constitutional right of equal protection under the law. (The Applicant's Proposal, p. 18)

The applicants expressed the concern that the ruling in question might by implication undermine the efforts of public schools, day care centers, legal guardians, foster care, and even parents to provide special care functions for disabled persons. The applicants were concerned that these special care services might eventually be determined by the Department to be illegal, since most of the special care functions provided in these contexts are provided by unlicensed personnel, and as

such have not been granted an exemption under the nurse practice act. (The Applicant's Proposal,, p.7)

Comments by Other Interested Parties

Those persons with concerns about the proposal stated that while the concerns of the applicant group are legitimate, the controversy raised by the Mitchell, Nebraska ruling also raises serious questions about public health and safety. These persons stated that some of the functions associated with special care services are inherently dangerous, and that those who provide these services should be well-trained so as not to harm the people they are serving. These persons expressed concerns about such procedures as tube-feeding, catheterization, and tracheostomy care. These procedures, if not performed properly, could result in harm or even loss of life. These persons with concerns about the proposal stated that as laudable as the goal of normalization for disabled persons is, it must be balanced against concerns for public health and safety. (The Minutes of the Second Meeting, November 7, 1989)

II. Is there Potential for Harm Inherent in the Proposal?

Comments by Persons with Concerns about the Proposal

Although most interested parties to the proposal expressed support for the goals of the proposal, concerns were expressed by interested parties about the safety of some of the procedure associated with special care services. Concerns were expressed about such procedures as tracheostomy care. The committee members were informed that such procedures if performed improperly could result in loss of life. Concerns were also expressed about tube-feedings and catheterizations. Those persons with concerns about the proposal stated that these are not routine procedures, and that those who perform them should have much more training than what is provided for in the applicant's proposal. (Minutes of the Second Meeting, November 7, 1989)

The opponents of the proposal stated that the estimated two-hour training course provided in the proposal would not be adequate to prepare special care personnel to perform their functions safely and effectively. The opponents stated that as of January 1, 1990, the federal government will require 75 hours of training for personnel that perform special care functions for any agency or institution that receives Medicare reimbursement. In the opinion of the opponents, this federal standard will become the "yardstick" by which all such services are evaluated. (The Transcript of the Public Hearing, p. 94)

Some technical committee members were concerned that the proposal does not establish a list of functions and procedures that would define the parameters of special care services. These committee members felt that such a list is necessary in order to establish the limits of special

care practice. Currently there are no specified limits on what special care personnel can do. (Minutes of the Second Meeting, November 7, 1989)

Some technical committee members expressed concerns about the absence of specific training standards for special care providers in the proposal. These committee members were concerned that the open-ended nature of special care training as described in the proposal might result in critical deficiencies in a trainee's knowledge of pertinent safety procedures associated with the functions of special care services. These committee members were particulary concerned about infection control, and stated that infection control techniques should be a mandatory dimension of the training of all special care providers. (Minutes of the Second Meeting, November 7, 1989)

These committee members also pointed out that under the system of training described in the proposal, consumers cannot evaluate the abilities of the people they would hire. They felt that there is a need for the applicant group to define some general "baseline" competencies and skills that anyone who seeks to provide such services should possess. The current proposal does not define "baseline" skills or competencies. (Minutes of the Second Meeting, November 7, 1989)

Another concern was that the proposal places the entire burden of training special care providers on either medical doctors or nurses. The committee members were informed that most doctors and nurses are not qualified to provide this kind of training. One testifier stated that most doctors and nurses defer to nursing personnel that are specialists in enterostomal care when confronted by situations that require special care skills. (Transcript of the Public Hearing, p. 83)

Opponent testifiers stated that licensed practical nurses are not even allowed to perform some of the procedures associated with special care. They stated that licensed practical nurses cannot do nasal-gastric tube placement. These testifiers also stated that home health aides are not allowed to perform such procedures as tracheostomy care, tube-feedings, and catheterizations. (Transcript of the Public Hearing, p. 70)

Some committee members expressed the concern that those doctors and nurses who train special care providers would be held liable for any errors committed by the personnel they have trained. It was pointed out that trainers would be hard pressed to defend themselves given that the proposal provides no guidelines or standards of training that trainers could fall back on as the basis for a defense.

These committee members were also concerned that the proposal provides no means by which a trainer can determine whether or not a given trainee has achieved an appropriate level of competence. The proposal provides no curriculum or measures of competence; nor does it mandate a time-frame for the completion for a training course. One committee member stated that in the absence of formal guidelines for training, trainers would be tempted to "cut corners" in their efforts at training special care personnel. This committee member also expressed the concern that there would be no continuity in such a training system; and that there is no provision for the periodic retraining of special care personnel. (Minutes of the Second Meeting, November 7, 1989)

Opponent testifiers expressed concerns about the absence of any formal mechanism for the monitoring or supervision of special care personnel. These testifiers stated that ongoing monitoring and supervision is vital in an area like special care because of the rapid

turnover and relative lack of professional skills amongst special care personnel. (Transcript of the Public Hearing, pp. 71-72, 86)

Another opponent testifier stated that the proposal lacks clarity regarding which groups are being targeted. This testifier stated that thousands of people could be affected by the proposal. If so, the current proposal would provide no means of adequately serving such a larger number of people. (Transcript of the Public Hearing, pp. 88-89) One committee members stated that the lack of clarity as to who is covered by the proposal would inevitably lead to demands that the proposal include more population categories than the applicant group anticipated. (Minutes of the Second Meeting, November 7, 1989)

Applicant Group Comments

The applicants responded to comments about the absence of training standards and the lack of a formal list of functions and procedures in the proposal by stating that the training and tasks associated with special care are specific to each particular client, and that a formal set of trianing requirements and standards would be both unnecessary and costly. (Minutes of the Second Meeting, November 7, 1989.) The applicants stated that training must be based upon the specific problems and needs of each client because it would be too costly and time-consuming to train each special care provider for every possible type of problem that exists among special care clients in general. (Transcript of the Public Hearing, pp. 133-134)

Regarding the training of special care personnel, the committee was informed that in some agencies, special care trainees receive as much as 45 hours of training. Some of this training is specialized and is provided by such professionals as physical therapists and dietitians.

This testimony showed that some agencies are training their people far beyond the two-hour minimum discussed in the proposal. (Transcript of the Public Hearing, pp. 131-132)

The representative of the applicant group on the committee stated that in practice there are some common "baseline" procedures that all special providers are taught, despite the fact that the proposal does not specifically define such a "baseline". (Transcript of the Public Hearing, pp. 50-51)

One proponent testifier listed some of the procedures that are taught to special care trainees, procedures that constitute a "baseline" curriculum for special care. These procedures include catheterizations, tracheostomy care, gastrostomy care, nasal tube inserts, colostomy care, and urostomy care. (Transcript of the Public Hearing, p. 16)

The applicants stated that the procedures associated with special care are largely routine, and that they are not medical functions that require extensive training or experience. Proponent testifiers stated as an example that children can be taught to self-catheterize safely. (Transcript of the Public Hearing, p. 146) One testifier stated, for example, that "CIC" procedures can be taught in one hour. (Transcript of the Public Hearing, pp. 108-111). The proponents argued that there is nothing inherently dangerous in most of the procedures associated with special care.

On the subject of monitoring, one committee member stated that there are ways that the state Department of Health could monitor special care providers. One idea that was suggested was the establishment of a central reference of people who have completed a training program for special care within the Department of Health. This method is currently

used to monitor care staff members in nursing homes. (Minutes of the Second Meeting, November 7, 1989)

One proponent testifier who worked for an agency that hires special care providers responded to opponent comments about the supposed high turnover rate among special care providers, and the monitoring problems this would cause by stating that the employees of her agency average about four years with the agency. These figures do not indicate serious turnover problems inherent in special care services for the monitoring of special care providers. (Transcript of the Public Hearing, p. 132)

The applicants stated that there is no evidence of harm from the provision of special care services in any state where such services are provided. Proponent testifiers stated that due to modern technology, functions that were previously performed only by health professionals can now be performed safely by ordinary citizens. (Transcript of the Public Hearing, pp. 53, 146)

III. Alternatives to the Proposal

Some opponent testifiers discussed alternative means of addressing the problems described in the proposal. One testifier stated that home health aides should be used to provide special care services. This testifier stated that using home health aide services would be advantageous because these care giver services are already in place. This testifier stated that using these services would make the creation of a new category of caregiver unnecessary. (Transcript of the Public Hearing, p. 91)

However, other testifiers stated that home health aides are not currently allowed to perform all of the functions that the applicant group seeks for special care services. Home health aides are not allowed to perform tube-feedings, tracheostomy care, irrigations, or catheterizations unless under the direct supervision of a nurse. (Transcript of the Public Hearing, p. 94)

Some testifiers suggested that special care providers be given the same type of training that care staff members in nursing homes receive. This would give special care givers what they need to perform their services safely and effectively. This would in effect turn these care givers into a new category of health care provider. One testifier stated that the credentialing of special care providers should not be out of the question. (Transcript of the Public Hearing, p. 78)

Applicant group testifiers responded by stating that creating another category of care giver is not necessary, and that the training of special care providers should be individualized rather than generalized. These testifiers stated that formal standardized training program is also not necessary because the procedures associated with special care are

relatively simple and don't require that caregivers receive an extensive, standardized training program in order to perform them safely and effectively. (Transcript of the Public Hearing, pp. 134, 143)

Some opponent testifiers stated that the current situation would be preferable to what the applicant group is proposing. These testifiers were concerned that the absence of training standards and the absence of a system of supervision for special care personnel in the proposal would create a source of harm to special care clients. These testifiers stated that as laudable as the goals of the proposal are, they should not be achieved at the expense of public health and safety. (Transcript of the Public Hearing, pp. 73, 94)

What are the Financial Implications of the Proposal?

The applicants stated that the costs of the proposal would be minimal because most of the objectives of the proposal can be achieved with present resources. The applicants stated that verification of training and periodic assessment by the Department of Health might add some minimal extra cost beyond current expenditures for special care. The applicants stated that because the costs of the proposal are minimal, the costs of services passed on to the public would remain the same. (The Applicant's Proposal, pp. 33 and 35)

Some committee members expressed concern that the costs of the proposal cannot be estimated because the proposal does not specify either the content or the duration of special care training programs. One committee member added that the costs of this kind of training can vary from twenty-five cents an hour up to eighty cents an hour. This committee member stated that this adds to the difficulties in estimating

the costs of the proposal. (The Minutes of the Third Meeting, November 28, 1989)

Some committee members asked how important third party payors are in defraying the costs of special care services. The applicants responded by stating that the agencies that hire special care personnel pay for most of the costs associated with the provision of services. The applicants stated that most of the money for these payments comes from Federal entitlement programs. The applicants stated that only a small portion of these costs are paid by Blue Cross and Blue Shield. The applicants acknowledged that the public obligation for these services would likely increase as a result of the applicants' proposal. (The Minutes of the Third Meeting, November 28, 1989)

One committee member asked the applicants whether or not there were procedures in special care services that third party payors are reluctant to pay for. The applicants responded by stating that a liability insurer would not cover tracheostomy procedures because there are risks associated with this kind of care. One committee member stated that inapropriately performed tracheostomy care can result in loss of life. (The Minutes of the Third Meeting, November 28, 1989)

One testifier at the public hearing stated that the costs of training a home health aide under the new 1990 federal guidelines will be about $250 per trainee at the home health aide I level. This testifier indicated that the costs of training these types of caregivers are going to be increasing in part because of these new federal guidelines. This testifier stated that these higher training costs will eventually be passed on to the public. (Transcript of the Public Hearing, pp. 98-102)

COMMITTEE CONCLUSIONS AND RECOMMENDATIONS

At their fifth meeting the committee members formulated their recommendations on the proposal by taking action on the four criteria of the credentialing review statute that are pertinent to the proposal. The discussion on the first criterion revealed that the committee members were concerned about the number of people who would be affected by the proposal. Dr. Weaver cited statistics from the transcript of the public hearing that indicated that the applicant group has underestimated the number of potential clients for special care services. These statistics indicated that between 1983 and 1987 there were more than 3,000 severely handicapped children diagnosed with 5,000 identifiable disabilities. Dr. Weaver stated that the number of such cases is likely to increase in the future, and that this prospect heightens his concerns about the absence of formal mechanisms in the proposal for the monitoring and supervision of special care services, and the absence of a standardized "baseline" training curriculum for special care personnel. (Minutes of the Fifth Meeting, December 21, 1989)

Ginger Clubine, the representative of the applicant group on the committee, responded to these concerns by stating that the statistics in question are misleading. Ms. Clubine stated that most of the cases included in the statistical group described by Dr. Weaver are indicative of people with speech and learning disabilities rather than physical disabilities per se, and that such figures create a very inaccurate picture of the potential client population for special care services. For persons from birth through twenty-one years of age, 263 people have severe or profound mental retardation in Nebraska. Of these,

approximately 25 are in out-of-home placements. The others are at home or with foster parents. Dr. Weaver reiterated his concerns and stated that the scope of the proposal needs to be expanded to cover clients who are ill and elderly, not just those who are disabled. Dr. Weaver stated that if this is not done, other advocacy groups will come through the credentialing review program with proposals that seek to provide similar services for their members. He stated that this could be circumvented by including as many groups that need such services in the current proposal as possible. (Minutes of the Fifth Meeting, December 21, 1989)

Marcy Wyrens expressed the concern that the proposal does not adequately provide for the protection of special care clients from a variety of potential harms that can arise form the provision of special care services. Ms. Wyrens stated that the amount of training provided in the proposal would not be enough to provide special care givers with sufficient training to provide their services safely. Ms. Wyrens stated that federal law now requires seventy-five hours of training for Medicaid reimbursement. Ms. Wyrens added that some special care procedures are medical procedures and that the two hours of training mentioned in the proposal could not possibly provide trainees with adequate preparation for such procedures. Dr. Weaver agreed with Ms. Wyrens, and expressed concerns about the applicant group's characterization of special care procedures as "routine" procedures that can be performed by ordinary citizens. He stated that the absence of a formal mechanism for supervision of special care providers is a source of potential harm. (Minutes of the Fifth Meeting, December 21, 1989)

Ginger Clubine responded to these concerns by stating that the services of special care providers would be monitored even though the

proposal does not define a formal mechanism for monitoring. Ms. Clubine addressed the safety concerns of the committee by stating that as an example, spoon feeding is sometimes more dangerous than tube-feeding, and that no evidence of harm from the provision of special care services has ever been found. Ms. Clubine and Audrey Bakula then asked the other committee members how the goal of helping families who have disabled children can be achieved if, as some committee members have implied, the current proposal is not the appropriate vehicle for this goal.
Dr. Weaver suggested that the proposal could be improved by requiring that the Department of Health and the Board of Nursing work together to define an appropriate list of procedures for the training of personnel, and to define an appropriate mechanism for the monitoring and supervision of the services of such personnel. He added that home health aides might be the appropriate personnel to provide these services. (Minutes of the Fifth Meeting, December 21,1989)

Phyllis Smith stated that she would prefer that special care services be kept in the hands of people with professional medical training such as nurses so that people with disabilities are assured that they will not receive second-rate care. Ms. Smith said that as noble as are the goals of the proposal, they should not be achieved at the expense of quality of care. Nancy Murray and Laurie Andrews also expressed concerns about the quality of care that would be provided in a group home situation under the terms of the proposal, given the absence of formal monitoring and supervision of unlicensed care givers. (Minutes of the Fifth Meeting, December 21, 1989)

Ginger Clubine responded by stating that there is a need for consumer input into the care of disabled persons. She stated that quite

often family members know more about the care of their disabled loved ones than any health professional does. She stated that the committee should help the applicant group find a way to alter the status quo in the area of special care services so that those families that are suffering can be helped.

At this juncture, Phyllis Smith moved that the committee members vote on the four criteria. Nancy Murray seconded the motion. The committee accepted this motion by acclamation Phyllis Smith then moved that, "The present scope of practice or limitations on the scope of practice create a situation of harm or danger to 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." Audrey Bakula seconded the motion. A majority of the committee members decided that the proposal does not satisfy this criterion.

Laurie Andrews moved that, "The proposed change in scope of practice does not create a significant new danger to the health, safety or welfare of the public." Phyllis Smith seconded the motion. A majority of committee members decided that the proposal does not satisfy this criterion.

Marcy Wyrens moved that, "Enactment of the proposed change in scope of practice would benefit the health, safety, or welfare of the public." Nancy Murray seconded the motion. A majority of committee members decided that the proposal does not satisfy this criterion.

Phyllis Smith moved that "The public cannot be effectively protected by other means in a more cost-effective manner." Audrey Bakula seconded the motion. A majority of committee members decided that the proposal

does not satisfy this criterion. By these actions, the committee had decided not to recommend approval of the proposal.

The committee members then discussed ways in which the proposal could be improved. Dr. Weaver suggested that the wording in the proposal on page ten, question number six, which describes the applicants proposed two-hour training course for special care providers be changed so as to provide for the training of a home health aide by either a physician or a nurse to perform special care services. The curriculum for this training would comprise whatever procedures that the Department of Health and the Board of Nursing deemed necessary to meet the needs of those who need special care services. This training could be administered to Home Health Aide I's.

Dr. Weaver then stated that the Department of Health and the Board of Nursing could also establish criteria for the evaluation and monitoring of personnel as well as a mechanism to carry out such evaluation and monitoring. Phyllis Smith stated that the mechanism for monitoring should include the "periodic follow-up" of personnel by a nurse or a physician.

Under this concept there would be no change in nursing scope of practice, but an exception would be made for these care givers to the extent that one already exists for current home health aide services.

The committee members discussed the idea of establishing a list of procedures for special care for the purpose of creating a "baseline" for the provision of special care services. Dr. Weaver suggested that the Board of Nursing establish these procedures and then submit them to the Department of Health for review and for the development of appropriate guidelines.

The committee members then discussed the issue of the range of consumers that special care services should include. Dr. Weaver suggested that any person who needs a special care procedure who would do this for himself or herself except for his or her disability should be eligible to receive such procedures.

To summarize their recommendations, the technical committee members unanimously approved the following language at their six meeting:

> It is the intent of this committee to identify an appropriate mechanism to empower caregivers to provide health care maintenance tasks that will enable persons with disabilities to live in the community in the spirit of the application under consideration, while recognizing that it is desirable to ensure protection of the public by establishing minimum standards of training and supervision.
>
> The committee is in unanimous agreement that this may be accomplished by any persons defined as a Home Health Aide performing specific health maintenance tasks, determined by the Department of health in consultation with the Board of Nursing, for any individual which, but for age or disability, these individuals would perform for themselves.
>
> Providing that such Home Health Aides shall successfully complete a program of additional instruction approved by the Department of Health of not less than two hours didactic training and practicum with periodic reevaluation for each task to be performed; and that such tasks shall be performed only under the supervision of a Nebraska-licensed registered nurse.

In deliberation, the technical committee members recognized the fact that while home health aides appear to be a good vehicle for baseline special care services, there are varying equivalent training programs for home health aides.

OVERVIEW OF COMMITTEE PROCEEDINGS

The Special Care Technical Committee members met on October 26, 1989 in Lincoln at the Nebraska State Office Building for their first meeting. Staff described the role, duties, and responsibilities of the committee under the credentialing process. Other areas touched upon were the charge to the committee, the four criteria for credentialing contained within Section 21 of the Credentialing Review Statute, and potential problems that the committee might confront while proceeding through the review.

The committee members met for their second meeting on November 7, 1989 in Lincoln in the State Office Building.

The committee also 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 members met for their third meeting on November 28, 1989 in Lincoln in the State Office Building. The committee members continued their discussion of the issues raised by the proposal.

The committee members convened on December 8, 1989 in Lincoln at the Nebraska State office Building for the public hearing. Proponents were given twenty-five minutes to present their testimony. All other testifiers were limited to ten minutes of testimony each. Interested parties were given ten days to submit final comments to the committee.

The committee members met for their fifth meeting on December 21, 1989 in Lincoln at the State Office Building. After studying all of the relevant information concerning the proposal, the committee formulated

its recommendations on the proposal by voting on the four criteria of the credentialing review statute.

Phyllis Smith moved that he proposal satisfies the first criterion which states, "The present scope of practice or limitations on the scope of practice create a situation of harm or danger to 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." Audrey Bakula seconded the motion. Voting aye were Clubine and Bakula. Voting nay were Andrews, Murray, Smith, and Wyrens. Weaver abstained from voting.

Laurie Andrews moved that he proposal does satisfy the second criterion which sates, "The proposed change in scope of practice does not create a significant new danger to the health, safety or welfare of the public." Phyllis Smith seconded the motion. Voting aye were Clubine and Bakula. Voting nay were Andrews, Murray, Smith and Wyrens. Weaver abstained from voting.

Marcy Wyrens moved 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." Nancy Murray seconded the motion. Voting aye were Clubine and Bakula. Voting nay were Andrews, Murray, Smith, and Wyrens. Weaver abstained from voting.

Phyllis Smith moved that the proposal satisfies the fourth criterion, which states, "The public cannot be effectively protected by other means in a more cost-effective manner." Audrey Bakula seconded the motion. Voting aye were Clubine and Bakula. Voting nay were Andrews, Murray, Smith, and Wyrens. Weaver abstained from voting.

The committee discussed but did not formally vote on several additional recommendations.

At their sixth meeting, the committee members summarized the wording of their additional recommendations as follows:

"It is the intent of this committee to identify an appropriate mechanism to empower caregivers to provide health care maintenance tasks that will enable persons with disabilities to live in the community in the spirit of the application under consideration, while recognizing that it is desirable to ensure protection of the public by establishing minimum standards of training and supervision.

"The committee is in unanimous agreement that this may be accomplished by any person defined as a Home Health Aide performing specific health maintenance tasks, to be determined by the Department of Health upon consultation with the Board of Nursing, for any individual who, but for age or disability, would perform for themselves.

"Providing that such Home Health Aides shall successfully complete a program of additional instruction approved by the Department of Health of not less than two hours didactic training and practicum with periodic reevaluation for each task to be performed; and that such tasks shall be performed only under the supervision of a Nebraska-licensed registered nurse."

In deliberation, the technical committee members recognized the fact that while home health aides appear to be a good vehicle for baseline special care services, there are varying equivalent training programs for home health aides.

Phyllis Smith moved that the committee approve this wording as the embodiment of the committee's additional recommendations. Marcy Wyrens

seconded the motion. Voting aye were Wyrens, Bakula, Clubine, Andrews, Murray, Smith, and Weaver. There were no nay votes or abstentions.

The committee members then approved the report. Phyllis Smith moved that the committee approve the report as corrected. Laurie Andrews seconded the motion. Voting aye were Wyrens, Bakula, Clubine Andrews, Murray, Smith, and Weaver. There were no nay votes or abstentions. By this action, the committee members approved the report as corrected.