Dear Technical Committee Members:

Thank you for the opportunity to provide comments on the proposed changes to the LPN licensure requirements identified in the Board of Nursing’s (BON) initial application to the 407 Technical Review Committee and their subsequent education plan for Nebraska’s current Licensed Practical Nurses (LPNs). As requested, we have also attempted to address the statutory criteria for a change in scope of practice within our commentary.

The Nebraska Health Care Association (NHCA) serves as the umbrella organization for the following membership associations:

- Nebraska Nursing Facility Association
- Nebraska Assisted Living Association
- Nebraska Hospice and Palliative Care Association
- Licensed Practical Nurse (LPN) Association of Nebraska

Criterion 1 – The health, safety, and welfare of the public are inadequately addressed by the present scope of practice or limitations on the scope of practice.

Criterion 2 – Enactment of the proposed change in scope of practice would benefit the health, safety or welfare of the public.

Criterion 3 – The proposed change in scope of practice does not create a significant new danger to the health, safety or welfare of the public.

Our members in general support the BON’s desire to incorporate Nebraska’s current LPN-Certification (LPN-C) requirements into the general licensed practical nurse (LPN) requirements with the goals of:

- Increasing the comprehensiveness of LPN education;
- Improving the consistency of inter-state LPN scope of practice; and
- Gradually eliminating the need for dual-licensure.
Criterion 4 – The current education and training for the health profession adequately prepares practitioners to perform the new skill or service.

The concerns we have on behalf of our members are focused on the process for addressing the more than 6,000 current LPNs in Nebraska who have not previously chosen to complete the process to become LPN-Cs.

Based on our members’ comments, their choice not to pursue the LPN-C is due to a variety of reasons, the most prevalent being there is no need for the intravenous (IV) therapy skills in their work setting of choice because:

- LPNs are not allowed to perform these interventions, based on the licensure limitations of their work setting (e.g. assisted living);
- Employers do not use LPNs to perform these interventions in home settings (e.g. home health, hospice services) because of the economic impracticality of providing regular oversight by a Registered Nurse or licensed practitioner – nursing licensure requires that the RN or licensed practitioner “must be present at least once during each 24-hour interval to assess the client when the LPN is providing the (IV therapy) interventions.” (727 NAC 99-007.03A); or
- IV therapy is just not one of the LPN’s job responsibilities.

Although some of our LPN members feel they should not be required to take additional education that is irrelevant to their current job, there are a number of members who feel the original education plan submitted by the BON provides an acceptable option, because:

- The theory/didactic education component focuses only on the necessary IV therapy information, recognizes a current LPN’s prior education and work experience, and eliminates duplicative educational components;
- Offers the LPN the option of completing the theory/didactic education component in-person or online;
- Allows the theory/didactic education component to count toward the continuing education hours needed to meet the LPN’s biennial license renewal requirements;
- Allows LPNs sufficient time (five years) to complete the additional theory/didactic education component; and
- Only requires the additional in-person clinical education/skills demonstration component for those LPNs who will actually be performing IV therapy interventions as part of their employment.

NHCA does not support the change suggested at the October 407 meeting, which would require all 6,000+ LPNs in Nebraska to complete both the clinical education/skills demonstration component, in addition to the 8-10 hour theory/didactic education component, and to complete all of the educational requirements in less than five-years, because:

- Even theoretically, it isn’t possible to educate over 6,000 LPNs in the suggested period of time, especially when the clinical education/skills demonstration component would need to be completed in-person;
Our nursing facility, assisted living facility and hospice members are struggling with workforce challenges that have and will continue to increase, including a growing need for LPNs;

- Requiring LPNs to complete education they will not use, with the additional class and transportation costs, and the possible need to take time off from work creates an unnecessary hardship for LPNs who are providing valuable care to Nebraskans every day;

- Expecting employers to cover the cost of additional LPN education that will not be used in their work setting and find coverage for the LPN while he/she is completing the training creates an unnecessary hardship for employers who must continue to provide necessary care to Nebraskans;

- The stakeholders with interest in this proposal, represented by the Nebraska Health Care Association, Nebraska Medical Association, Nebraska Hospital Association, Nebraska Home Care Association and Nebraska Nurses Association have agreed to support the original BON education plan; and

- We feel the education plan submitted by the Board of Nursing addresses the need to move toward scope of practice consistency, while protecting consumer safety and helping to preserve Nebraska's current LPN workforce.

**Criterion 5** - There are appropriate post-professional programs and competence assessment measures available to assure that the practitioner is competent to perform the new skill or service in a safe manner.

**Criterion 6** - There are adequate measures to assess whether practitioners are competently performing the new skill or service and to take appropriate action if they are not performing competently.

There are safeguards in place to address the concern voiced at the October meeting that if the clinical education/skills demonstration component is not mandatory for all of Nebraska's 6,000+ LPNs, there will be LPNs performing IV therapy, who are not trained or competent to perform these interventions.

Although no statute or regulation can assure 100% public protection, the required LPN oversight by a Registered Nurse or licensed practitioner provides substantial protection.

The employer and/or supervising RN or licensed practitioner is also responsible for assessing the LPN’s competence in performing the nursing interventions they are assigned:

LPNs are required to “practice nursing only under circumstances in which direction is provided by a RN or licensed practitioner.”

*(Title 172 NAC 99-005.018)*

When accepting nursing assignments, LPNs “must:

1. accept only those assignments authorized by the level of nursing for which the nurse receiving the assignment is licensed,
2. accept only those assignments for which he/she has the required knowledge, skills, and abilities,
3. acknowledge personal limitations in knowledge and skills, and communicate the need for specialized instruction prior to accepting any assignments, and
4. give sufficient notice of intent to refuse an assignment so as to allow the nurse making the assignment to make alternative arrangements for the assignment.”

*(Title 172 NAC 99-006.02A)*

When an RN assigns responsibility for certain nursing interventions to another licensed nurse, the RN “must:
1. assign only those nursing interventions authorized by the level of nursing for which the nurse receiving the assignment is licensed, and
2. assign only those nursing interventions for which the nurse making the assignments has reason to believe the nurse receiving the assignment is competent to provide.
   a. The nursing service administrator is responsible to assess and evaluate to determine that licensed nurses have the required competencies expected for the nurse’s nursing practice role.
   b. The nurse making assignments is responsible to assess the competence of the nurse accepting the assignment to fulfill the specific patient care assignment.”

*(Title 172 NAC 99-006.01A)*

Given the existing oversight requirements for LPNs, we feel the original education plan submitted by the BON meets the statutory criteria for expansion of a scope of practice, provides a reasonable option to encourage Nebraska’s current LPNs to expand their education, and allows LPNs who wish to continue providing (non-IV therapy) care to maintain their employment.

In response to the Committee’s request, enclosed is:
1. A summary of LPN data gathered as part of the Nebraska Department of Health and Human Services’ 2015 LPN license renewal survey and
2. A summary of NHCA’s survey of LPNs on the proposed changes.

NHCA appreciates being invited to participate in this discussion.

Sincerely,

Heath G. Boddy
President and CEO

Enclosures:
- Summary of LPN data from 2015 License Renewal Survey results
- LPN comments to NHCA on proposed changes