

FINAL Report of Findings and Recommendations

By the
Nebraska Board of Health

on the
Application for a Change in
Nursing Scope of Practice
by ARC - Nebraska

to the
Director of Health
and the
Nebraska Legislature

January 22, 1990

Introduction

The Nebraska Regulation of Health Professions Act created a three-tier process for the review of proposals pertaining to the credentialing of health occupations. These three tiers are the technical review committees, the Nebraska Board of Health, and the Director of Health. The Board of Health reviews specific proposals for credentialing only after the technical committees have completed their reports on these proposals. After the Board completes its reports on the proposals, these reports, and those of the technical committees are presented to the Director of Health, who in turn prepares his own report on them. All reports are submitted to the Legislature for its consideration.

Each of these three review bodies issue reports that represent the advice of their membership on the proposals in question. Each report is a separate, independent response to the proposals, and is in no way dependent upon the reports that have preceded it.

The Board of Health reviews credentialing proposals only after receiving a preliminary recommendation on each proposal from an advisory subcommittee selected from its own membership. This subcommittee met on January 17, 1990, in order to give the full Board its advice on the proposal of the First Responders. The full Board of Health then met on January 22, 1990, and formulated its own, independent report on this proposal. The following pages constitute the body of this report.

Recommendations

The applicant group in its proposal sought 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 technical committee decided not to recommend approval of the proposal. The technical committee did recommend that home health aides be allowed to provide special care functions as defined by the Board of Nursing and the Department of Health. The Board of Health endorsed the recommendations of the technical committee.

The Deliberations of the 407 Subcommittee

Dr. Shapiro began the discussion by asking whether or not there has been any evidence of actual harm to the public stemming from the provision of special care services. Ginger Clubine, the representative of the applicant group at the meeting, responded by stating that there has been no evidence of such harm.

Dr. Shapiro then asked whether or not the costs of training home health aides to provide special care services, as was recommended by the technical committee, would be greater than the costs of the training proposed by the applicant group in the proposal.

Dr. Weaver, the chairman of the technical review committee, responded by stating that the costs of providing a home health aide with special care training would not be

significantly higher than would the costs of training other caregivers to provide these services.

Ginger Clubine expressed the concern that the technical committee recommendations which called for the board of nursing to define the specific functions of special care and the curriculum for special care training were too heavily weighted in favor of the concerns of those who perceive special care services as medical services.

Dr. Shapiro responded to this concern by stating that the technical committee recommendations in question were a good middle ground between the concerns of the applicants and the concerns of those who see potential for harm inherent in some aspects of special care. Dr. Shapiro stated that these recommendations offer a means by which special care services can be provided by personnel who meet certain baseline standards, yet in a manner that is reasonably cost-effective.

Ginger Clubine responded to Dr. Shapiro's comments by expressing concern about how state government would implement these recommendations. Specifically, Ms. Clubine was concerned that the Department of health might not make a sufficiently broad interpretation of what constitutes "equivalent home health aide training".

Ms. Clubine was concerned that the goals of the proposal could become lost in the complex procedures, rules and regulations of state government. Ms. Clubine stated that the original proposal provided a clearer, simpler mechanism to provide special care services to the public.

Dr. Weaver responded to Ms. Clubine's concerns by stating that the technical committee recommendations were appropriate because there are potential hazards associated with some special care procedures. Dr. Weaver went on to state that the technical committee did not want to create a new category of caregiver. He stated that this was one reason why the committee recommended that special care services be provided by home health aides. Their services and training programs are already "in- place".

Judy Constantin with the Special Education program in the Department of Education stated that those who provide special care services, regardless of their occupational background, should have comparable training. Dr. Weaver stated that there are many routes by which a person can become a home health aide, but that absolute equivalency would be difficult to achieve. Dr. Weaver stated that he hoped that a common baseline for special care could be defined that would establish a degree of equivalency sufficient to provide reasonable assurance of quality care.

Vicki Burbach, Health Department staff person with the Board of Nursing, stated that equivalency in practice will not be possible, not only because of the varying backgrounds of caregivers, but also because of the varying quality of supervision of caregivers that occurs from one type of living environment to another. The quality of care will not be the same in one's own home as it is in a group home, for example.

Ms. Burbach went on to state that nursing supervision is needed to establish and maintain good quality of care in

special care services. She stated that in states such as California and Iowa, for example, unlicensed people are not allowed to do tracheostomy care or provide tube feedings without being under the supervision of a nurse.

Dr. Shapiro responded to Ms. Burbach by stating that given the absence of any evidence of harm, deviating from such a standard of supervision would probably not endanger those who would use special care services.

David Montgomery, principal staff person with the credentialing review program, expressed the concern that if the Special Care Services Bill (LB 688) were amended in accordance with technical committee recommendations so as to request a specific list of procedures for special care, there might not be sufficient statutory authority to promulgate rules and regulations for such a list of procedures.

Because Dr. Timperley and Dr. Williams were not in attendance, credentialing review staff received their comments on the proposal over the telephone. Both Dr. Timperley and Dr. Williams indicated that they agreed with the recommendations of the technical committee on the proposal, and that they agreed with the additional recommendations made by the committee.

The Deliberation of the Full Board of Health

After the presentation of the report of the technical committee to the Board by Dr. Weaver, chairperson Shapiro asked for a motion to endorse the recommendations of the technical committee on the proposal. Carl Maltas so moved. J.C. Marcum, D.V.M., seconded the motion.

The technical committee recommendations that were under consideration by the Board members consist of the following:

1) denial of the applicant's proposal for the change in nursing scope of practice outlined earlier in this report.

2) An additional recommendation which stated:

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.

The Board members voted on the motion of Mr. Maltas to approve all of these technical committee recommendations as follows: voting aye were Allington, Blair, Gilmore, Jeffers, Lefler, Maltas, Marcum, McQuillan, Schlachter, Simon, Timperley, Wahl, Weaver, Williams, and Shapiro. There were no nay votes or abstentions. By this action, the Board members endorsed the recommendations of the technical committee on the proposal.