

Final Report of Preliminary Findings and Recommendations

By the  
Technical Committee for the Review of the  
Application for Change in Scope of Practice by the  
Nebraska Department of Health  
on Home Health Aides

To the  
Nebraska Board of Health  
Director of Health  
and the  
Nebraska Legislature

October 1, 1987



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

Janet Coleman, Chairperson (Lincoln)

Linda Ament, R.N., Director of Beatrice Home Health Agency (Beatrice)

Audrey Bakula (Lincoln)

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## INTRODUCTION

The Nebraska Credentialing Review Program, established by the Nebraska Regulation of Health Professions Act (LB 407) 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 public health, safety, and welfare.

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 three 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 THE PROPOSAL

The Nebraska State Department of Health seeks to set minimum training and supervision standards for home health aides in order to assure safe, effective, and competent care. Under the terms of the application, home health aides must satisfy the following criteria in order to work as an aide in Nebraska:

- They must be at least nineteen (19) years old;
- They cannot have been convicted of a crime related to their practice involving moral turpitude;
- They must be able to speak, read, and understand English or the language of the home health client and the agency staff member who acts as the home health aide's supervisor;
- They must be competent to perform assigned responsibilities and successfully complete, within 120 days of employment a Nebraska State Health Department approved course in home health training; or
- They must be a current nursing student who has completed a course in nursing which includes practical clinical experience; or
- They must be a graduate from a practical or professional school of nursing; or
- They must be an individual currently employed in good standing as a home health aide at the effective date of these regulations who is able to demonstrate competency in the skills covered in the home health aide training course that meets standards set by Department of Health rules and regulations and has received a certificate documenting this competency; or
- They must be an individual employed in good standing as a home health aide before this regulation becomes effective but does not have a certificate documenting competencies outlined in a Department approved home health aide training course. Individuals in this category will have to meet the pre-requisite qualifications within six (6) months after the regulations go into effect; or

- They must successfully complete a Basic Resident Care course for nursing assistants in nursing home approved by the Department and has completed an additional home health aide component which has been approved by the Department of Health.

The application states that all home health aides who work for a home health agency in Nebraska must complete at least 40 hours of training and demonstrate competency in specific skills listed in the curriculum before being permitted to work in a client's home. Home health aide courses must include a minimum of 40 hours of classroom instruction and an additional 15 hours of field work in a client's home under the supervision of a registered nurse or another appropriate professional. The Department shall review and approve all courses, lectures, seminars, course materials, and other instructional programs used in or for a home health aide training course.

As regards supervision of home health aides, the application states that home health agencies will be responsible for providing at least four separate hour-long in-service training sessions for home health aides each year for the purpose of reviewing skills taught in the original home health aide course and learning new home health aide skills.

The application states that each home health aide shall be supervised by a registered nurse and shall be given written instructions for patient care prepared by an appropriate, qualified health professional. Furthermore, a registered nurse or appropriate professional member of the home health agency will accompany the home health aide on the first visit to a client's home for purposes of orienting the aide. The application does not permit one aide to orient another; nor does it permit an aide to work in a client's home unless a registered nurse from the home health

agency is available to answer questions or assist the aide if necessary. In addition, the application states that a physician, registered nurse, or appropriate health professional shall visit each client's home every two weeks or up to 60 days if justified in clinical record by a Registered Nurse to supervise home health aide services. The application states that the Department will regulate the home health agency through home health agency licensing laws rather than regulate the home health aides themselves.

#### CRITICAL ISSUES RAISED BY THE HOME HEALTH APPLICATION

The Committee discussed issues regarding the following topic areas:

##### Harm to the Public Posed by the Current Practice Situation

The applicants stated that Nebraska has no regulations on home health aide training or supervision. There are currently no standards of practice that aides have to meet before they can work in a client's home. The applicants stated that this practice situation inherently places the consumer at risk.

Home health aides who are not trained often do not know what kinds of care they are legally permitted to provide. Such a person, for example, might attempt to fill an injectable medication syringe for a client, not realizing that it is not legal for aides to perform such services. Such actions could also be fatal for the client if not done properly.

Home health aides can do serious harm to clients if not properly trained in lifting and transferring techniques. For example, an aide who allows a frail or weak client to get all the way into a bathtub may have great difficulty in helping the client out of the tub due to the client's



weakened condition. A trained aide would know that a full tub bath is not appropriate for a weak client. A trained aide would place a tub stool in the tub to avoid submersion, or would have the client take a partial bath at the sink or in bed. If a problem arises, the trained aide is taught to call an appropriate professional for assistance.

Home health aides also need training in the area of infection control in order to help prevent the spread of disease. They also need training in the area of nutrition, first aid and CPR, the measurement of vital signs, and in observation of their client's physical state. Without these skills the aide could do his client more harm than good.

#### Should Regulation be Done at One Level or Two?

There was considerable discussion among the committee members about a one-tier versus a two-tier level of regulation for home health aides. The authors of the application stated that regulation at one level would provide for better protection of the public than would a multi-tier system of regulation. They stated that a multi-tier system would mitigate against the establishment of minimum standards for all home health aides, standards which are essential for them to function effectively and safely in a client's home. In their view, the fact that aides go from patient to patient regardless of condition requires consistent training at one minimal level. Also the rapid potential for change in a client's health status is a powerful argument for having all in-home health workers trained to one minimum level.

Members of the Nebraska Association of Home and Community Health Agencies (NAHCHA) proposed a two-tier level of regulation for home health aides. This organization recognizes two levels of care provided by aides. They stated that the regulatory framework that emerges from the review

process should recognize this situation by creating different educational qualifications for the two levels of care, based on the degree of medical stability of the client.

The authors of the application and the members of NAHCHA disagreed as to how reflective such a two-tiered system would be of the realities of the practice situation of home health aides. The authors stated that there should be a minimum level of training for all home health aides. The authors added that a two-tier system could create a difficult division of labor. NAHCHA members countered by stating that the realities of current practice require that some types of care require a greater degree of competence than do others. Some patients are less stable than others requiring close monitoring of their physical condition. These clients need the services of aides who have training beyond the minimal level.

#### Training and Education of Home Health Aides

There were several concerns expressed by the committee regarding the training of home health aides. Some committee members expressed concern about the fact that much of the training would have to be done by registered nurses. These committee members stated that the current nursing shortage could delay the training of home health aides. They asked the applicant group whether or not it would be possible to do all or part of the 15-hour supervised field experience in a lab setting. One committee member responded by stating that a portion (up to seven hours) of the supervised clinical experience could be done in a lab setting or in a nursing home. However, the orientation to the home health agency upon employment should include individualized supervision with joint home visits by the supervising nurse.

Another issue of concern to the committee was the availability of home health aide training in rural Nebraska. Representatives of the applicant group responded by stating that such training is offered by local community colleges, colleges or schools of nursing, home health agencies, the Nebraska Association of Home and Community Health Agencies, and those high schools that offer adult education.

Some committee members wanted to know if a home health agency is required to pay aides to attend training prior to their employment. A member of the Division of Community Health Nursing of the State Department of Health stated that both federal and state labor laws coincided in that an agency is not required to pay for training when it has established such training as a precondition of employment. However, an agency must pay for training when it requires a currently employed aide to get additional training that is above and beyond that which was required as a precondition of employment.

Other issues raised during the review process were grandfathering, the scope of practice of home health aides, what (if any) impact the proposal would have on home health aides employed under contract to the Department of Social Services and the issue of nurse supervision of aides. A representative of the NAHCHA expressed this organization's concern that there is no grandfather clause in the current application. The absence of a grandfather clause would require that all aides be trained from scratch, and would cost a great deal of money. It is NAHCHA's position that current practitioners be grandfathered providing they take a competency exam accompanied by a skills demonstration. However, some committee members were concerned that the current standard examination developed by the Nebraska League of Nursing for this occupation has not been confidential. There was

also concern about costs associated with the validation and administration of the examination as well as the question of who should construct, administer, and evaluate the examination.

As regards the scope of practice of home health aides, NAHCHA submitted a document to the committee which contained a description of the various levels of practice within the occupation. The document described and defined Home Health Aides, Personal Care Aides, and aides providing skilled services to medically unstable clients. The authors of the current application expressed their disagreement with the document regarding the occupational distinctions that were drawn between skilled care workers and the other home health aides. It is their position these distinctions are more semantic than they are descriptive of the realities of actual practice.

Some committee members were concerned that those aides who work under contract for the Department of Social Services would not be covered by the terms of the proposal. A committee member added that her personal opinion was that all aides should be included under the terms of the proposal. However, a representative of the Department of Social Services stated that this department should not be covered by the terms of the application because it does not directly employ home health aides per se, but rather contracts for their services with private agencies, and is only a payer on behalf of clients.

The technical committee wanted the applicant group to clarify those aspects of nurse supervision of home health aides pertaining to aide visitation at a client's home. The committee wanted information as to the situations that required direct nurse visitation of a client's home. It was felt that this requirement could be very expensive. Considering the nursing shortage, and that it would not always be necessary for client protection.

## HOME HEALTH AIDE COMMITTEE CONCLUSIONS AND RECOMMENDATIONS

At their third meeting the technical committee members made a series of recommendations which were designed to modify the original proposal. The committee agreed that there was a need to add a grandfather clause to the proposal. The Committee agreed that current practitioners should not have to undergo a training program if they pass a written and a practical exam that would be administered to all current practitioners on a one-time basis. The Department of Health would be given the responsibility for all aspects of this examination process. The Committee was concerned that requiring all aides to undergo a training program without providing current practitioners an opportunity to become grandfathered would be a costly procedure both for the aides and the home health agencies.

The Committee recommended that a registered nurse or other health care professional should review the plan of care for home visits of each home health aide prior to their first visit to a client's home, but that the nurse need not accompany the aide in visiting the client's home. The Committee felt that this would help to keep the costs of home health care down in a manner consistent with the protection of the health and welfare of the client.

The Committee agreed that there should be some minimum standard of training and supervision of paraprofessionals who provide hands-on care in the home, and that once these minimum standards are set, there should be a determination as to the desirability of a two or more tiered system.

The Committee also recommended that the definitions that are currently used to describe home health aide service levels, job titles, and levels of supervision be reviewed so as to ensure that these definitions are mutually consistent. The committee felt that consistent definitions of these terms are

essential before specific educational and supervisory provisions for home health aides can be developed.

The committee then took action on the three criteria of LB 407 as they pertain to the home health aide application. The committee members unanimously agreed that the application, as modified by the above recommendations, satisfied the three criteria, in that there is harm to the public inherent in the current practice situation of home health aides, that the public needs and would benefit from more regulation in this area of practice, and that there are no alternatives to the proposal that will address the problems identified in home health aide practice in a more cost-effective manner.

At their fifth meeting, the technical committee members recommended that the rules and regulations should show the required frequency of supervision visits to client's homes by qualified health professionals. The Committee then recommended an exemption from the requirement to complete the full training course for those individuals with documented recent hospital experience as a competent nursing assistant. These individuals would be required to complete a skill proficiency test, refresher training, and an orientation to home health care. The Committee recommended that a home health aide who has not practiced in five years would not have to complete the full training course. These individuals should be required to complete a skills proficiency test and refresher training in areas of need as indicated by testing.

## OVERVIEW OF COMMITTEE PROCEEDINGS

The Care Staff Member/Home Health Aide Credentialing Review Technical Committee first convened on July 16, 1987, in Lincoln at the Nebraska State Office Building. An orientation session given by the staff focused specifically on the role, duties, and responsibilities of the Committee under the credentialing review process. Other areas touched upon were the charge to the Committee, the three criteria for credentialing contained with Section 21 of LB 407, and potential problems that the committee might confront with proceeding through the review.

The second meeting of the Committee was held on August 7, 1987, in Lincoln at the Nebraska State Office Building. After study of the Home Health Aide proposal and relevant material compiled by the staff and submitted by interested parties between the meetings, the Committee formulated a set of questions and issues it felt needed to be addressed at the next meeting. 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 convened on August 25, 1987, in Lincoln at the Nebraska State Office Building in order to formulate tentative recommendations on the Home Health Aide proposal. During this meeting, the Committee took action on the three criteria of LB 407 as they pertain to the home health aide application. The Committee members unanimously agreed that the application satisfied the three criteria, in that there is harm to the public inherent in the current practice situation of home health aides, that the public needs and would benefit from regulation in this area of practice, and that there are no alternatives to the proposal that will

address the problems identified in home health aide practice in a more cost\_effective manner.

The Committee convened on September 17, 1987, for its public hearing in Lincoln at the Nebraska State Office Building. Proponents, opponents, and neutral parties were given the opportunity to express their views on the proposal. Interested parties were given ten days to submit final comments to the Committee.

The Committee convened for its fifth meeting on October 1, 1987, in Lincoln at the Nebraska State Office Building in order to finalize its report on the Home Health Aide proposal. At this meeting, the Committee recommended adding a grandfather clause to the proposal as well as making recommendations in the area of nurse supervision of the aides and levels of regulation. The Committee recommended that the definitions that are used to define job levels, job titles, and levels of supervision in the home health aide field be reviewed for mutual consistency. The Committee also made recommendations defining who should be exempted from having to complete the full course of training as home health aides.