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Date

2-5-90

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MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Marvin L. Littlejohn at \_\_\_\_\_  
Chairperson

1:30 /a.m./p.m. on January 31, 1990 in room 423-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Research  
Norman Furse, Revisor  
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Linda Lubensky, Executive Director, Kansas Home Care Assn.  
Marceil Lauppe, RN, Executive Director/Douglas Co. Visiting Nurses Assn.  
Terri Roberts, Executive Director, Ks. State Nurses's Assn.  
Bernadina Knipp, Asst. Executive Director/Visiting Nurses Assn.  
Greater Kansas City, Kansas  
Pat L. Johnson, Acting Executive Administrator, Ks. State Board Nursing  
Debbie Nickels, RNC, Administrator Jefferson Co. Health Dept.  
Ramona Derousseau, R.N., B.S.N. Administrator Cloud Co. Health Dept.  
Terri Wahle, Director of Eldercare Home Health Services,  
Junction City, Kansas  
Mitzi Richards/Executive Director at Homecare/ Riley County  
Michael Lechner, Executive Director/Ks. Dept. Human Resources,  
Commission on Disability Concerns  
Elizabeth Taylor/Legislative Consultant to Ks. Federation of  
Licensed Practical Nurses, Inc.  
Ray Petty, Independence, Inc.

Chairman called attention to the fact that hearings had been postponed on HB 2664.

Chairman asked conferees to be concise and brief as possible so that we could hear all those who are scheduled to give testimony on HB 2594.

**HEARINGS BEGAN ON HB 2594.**

Linda Lubensky, Kansas Home Care Association, (see Attachment No.1), noted the growing numbers of frail elderly, rising costs of institutional care, coupled with "early dismissal" from the DRG system, have all made home care a necessity for many. She noted HB 2594 creates areas of flexibility that will allow existing staff to meet increasing needs of these people. A new level of paraprofessional, the Personal Care Attendant, (PCA) will be created. This level is less highly trained than home health aide, and provides strictly supportive care, rather than health related services. She noted concerns, i.e., questions by some as to whether Medicare certified agencies would be able to use the PCA; their Agency recommends the removal of Section 3 (c), which requires home health aides to complete the nursing home aide course prior to advancing to the home health curriculum since much that is included in that course is specific only to the nursing home environment, not home health. She noted further, it is their hope that the new paraprofessional curriculum system will be constructed in Kansas. She answered questions.

At this point Chairman Littlejohn asked that, in the interest of time, all members hold their questions until after all testimony had been given.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 423, Statehouse, at 1:30 ~~a.m.~~/p.m. on January 31, 1990.

HEARINGS CONTINUED ON HB 2594.

Marceil Lauppe, RN, Douglas County Visiting Nurses Association, (Attachment No.2), noted their case load is 330 patients, three times the Lawrence Hospital's daily census. Further noted, patient load is equally divided between acute care and long term care. She cited a specific case of a mother having to hire and train a student to prepare her 20 year old son with muscular dystrophy for bed and hook-up to a respirator because a registered nurse could not train a paid care-giver. Language in HB 2594 would rectify this situation. The creation of this new level of PCA will prove to be more economical as it will allow the elderly and others in need of personal care to remain in their homes. Passage of HB 2594 will also provide the opportunity for agencies to develop an aide career ladder and enhance recruitment.

Terri Roberts, (Attachment No.3) complimented Ms. Lubensky on her explanation of HB 2594, then noted her Association is always concerned with changes in the Nurse Practice Act, particularly where exceptions are proposed. She cited concerns, i.e., the exemption proposed is very broad in nature and would allow unlicensed individuals under the direction of a licensed professional nurse to perform selected nursing procedures; last year language was added as a compromise to provide persons and or a family member to offer care for the individual in need of care, so that we would not have to come before this committee again and defend still another exception to the Nurse Practice Act. Further concerns are that 110 hours are required of a home health aide, and a nursing home aide is required 90 hours, seems rather unjust. We do not support the changes recommended in the first section, specifically Page 2, line 16, that adds a new category of exemptions; new (k) is repetitive and unnecessary and should not be included in the bill. She noted perhaps it would be advisable to more clearly define the care giver, i.e., Home Health Aide #1, Home Health Aide #2, something that would clarify the care giver.

Bernadine Knipp, Assistant Director of Visiting Nurses Association, (see Attachment No.4), noted the new category of PCA will help meet needs of the aging population with assistance in the personal care and other activities of daily living, such as bathing, shampooing, dressing, etc. We believe, she said, personal care service is one of safest and cost effective methods of assisting our senior population so they may remain in their own homes. She noted curriculum for personal care attendants in Missouri is a 24 hour course, and it provides safe/quality care. They feel if Kansas is to facilitate the delivery of much needed and affordable services, HB 2594 must be ratified.

Pat Johnson, Acting Executive Administrator, Ks. Board of Nursing, (see Attachment No. 5), spoke of concerns with regard to changes in the Nurse Practice Act that will allow unlicensed individuals to perform procedures that fall in the realm of nursing care. Their Board opposes a list of procedures to be established and that all home health aides be taught these procedures with no follow-up supervision. The Board does not have opposition to establishing a new category of personal care attendant. There are concerns with HB 2594, but with adequate regulation and the supervision of unlicensed individuals who have an expanded role in care giving in the home setting, we feel the risks but the good would outweigh the negatives.

Debbie Nichels, Administrator, Jefferson County Health Department, see (Attachment No.6), noted HB 2012 was passed last year to provide instructed and supervised services to clients in their homes. Now you can take this one step further by making the proposed changes in the Nurse Practice Act. Due to no current division of aide levels, we currently must use more costly Home Health Aide profession to provide these very basic care services. If less costly care attendants could be used, more citizens could be cared for.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 423-S Statehouse, at 1:30 //a.m./p.m. on January 31, 1990

HEARINGS CONTINUED ON HB 2594

Ramona Derousseau, R.N., Administrator and Instructor of Cloud County Health Department, (see Attachment No. 7) spoke of the study program and curriculum regulations in regard to training of the PCA. She feels all 90 hours of instruction of these care givers is vital, and that in no way could half that training be appropriate. HB 2594 recommends only 40 hours, and this is cause for concern. They have, she said worked very hard to establish criteria to ensure quality/safe care, and feels to decrease the training would be a mistake. With increasing severity of home health patients due to Medicare cutbacks, we cannot at this time, she said, cut back on training requirements of the caregivers at any level as proposed in HB 2594.

Terri Wahle, R.N. Certified in Gerontological Nursing, gave hand-out, (see Attachment No. 8), noted concerns with HB 2594. She is opposed to the implementation of PCA, because many persuing employment in health-care field have no common knowledge or basic non-medical skills, and with only 40 hours of instruction and not required to pass a state examination further concerns on special procedures for bowel and bladder care, oxygen care, prosthesis care, heimlic manuever for adults, continuing education; liability issue; who supervises the PCA. With all these concerns, she stated there is doubt all these skills can be learned with 40 hours of training. She suggested going back to the drawing board.

Mitzi Richards, Executive Director Homecare in Manhattan, Kansas offered hand-out, (Attachment No.9). She believes HB 2594 to be a practical approach to addressing the growing need for health supportive services at home, while not compromising quality of care. She cited a specific case where at times a RN is required to apply topical medications when another care giver is already there seeing to her personal care. This proposal would significantly reduce the "revolving door" of care givers which often frustrates the elderly, not to mention the extra costs. She stated support for HB 2594.

Michael Lechner, Executive Director, Kansas Department of Human Re-sources, (see Attachment No. 10), he feels Section 4 (k) is duplicative of attendant care services. He questioned the necessity of HB 2594 since it appears to be duplicative and superfluous. Further concerns, i.e., the term PCA presents a problem since it is a term commonly used in the disability community to identify those unlicensed individuals who are not necessarily employed by a home health agency. He recommends striking the term "personal care attendant", and supplanting it with a title not in common usage, perhaps "Home Health Care Assistant" would be more appropriate. He spoke of concerns that legislation passed last year in HB 2012 was to allow a person to be trained by a family member or the individual in need of care train someone to assist in the care needed. It makes more sense to have that mother who is sensitive to the condition of the patient giving the training, than someone strange to the situation.

Elizabeth Taylor, Kansas Federation of Licensed Practical Nurses, (see Attachment No. 11), is opposed to provisions in HB 2594. We believe, no licensed procedures either nursing or medical should be performed by those not duly trained and credentialed under existing state law to perform such procedures. We have already gone beyond the original compromise of unskilled nursing services. Which group will be placed into a category of unskilled nursing care next? The 7000 Licensed Practical Nurses should be utilized to provide the care for which they were trained, rather than allowing untrained health care to be given. We do agree this time with Mick Lechner and would be happy to see you leave HB 2594 alone and to allow HB 2012 to carry out the functions that were intended in that legislation from 1989.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 423-S, Statehouse, at 1:30 a.m./p.m. on January 31, 1990.

Ray Petty, speaking for Mike Oxford and Mike Donnelly all from Independence, Inc. (see Attachment No. 12), stated the new subsection (k) would allow home health agency employees to perform routine nursing procedures at a lower cost. This would benefit both consumers and home health agencies. His concern however, is that the amendment proposed not in any way detract from the rights of self-directed consumers as outlined in last year's HB 2012. Further, we object to the term "personal care attendant" by home health agencies exclusively because if that term were used in the state Medicaid Waiver, an independent living agency who used the term would have to meet all requirements that a home health agency would. We would agree with Home Health Aide #1, or Home Health Aide #1. He noted there is another bill coming out of SRS requests that could affect HB 2594. Perhaps it would be good to wait for it before continuing on HB 2594.

Chair then allowed questions from members of the conferees. There were several.

Chair thanked all present for their cooperation. He asked if Agency persons could return tomorrow to present their testimony, and they agreed.

Hearings will continue tomorrow on HB 2594.

Meeting adjourned at 3:04 p.m.

VISITOR REGISTER

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

DATE Jan 31, 1990

NAME	ORGANIZATION	ADDRESS
Andrea Beard	SRS Adult Services	Topeka
Marilyn Jones	SRSAS	Topeka
Lina McDonald	SRSAS	Topeka
Patricia Barrett	Washburn University Nursing West	R1 Wakarusa
Linda Wbeasky	Ks Home Care Assn	Lawrence
Bernadine Knipp	Visiting Nurse Association of Douglas County	336 Missouri Kansas City
Marceil Laupre	Visiting Nurses Assn Jefferson Co.	Lawrence, Ks. 609 Liberty
Debbie Nichols	Health Dept + Home Health Agency	Dan Leavenworth, KS
Ramona Derousseau	Cloud County Health Dept.	811 Washington Concordia, KS 66901
Julia Schlobohm	Adult + Child Care, H+E	
John Kelly	DD Council	5th Fl North D SOB Topeka
Richard Charlton	ADAPT, IUC	1951 S. W. Mission TOPEKA
Mike Lechner	K D H A -	TOPEKA -
Terri Wahle	Eldercare Home Health	Junction City
Greg Reser	KDHE	Topeka
Cathy Ross	KDHE	Topeka
Marilyn Bradt	KINH	Lawrence
Keith Rylandis	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS	TOPEKA
Fatie Kyle	ADARP Cap City Trial Force	"
Melba Gwaltney	SRS / Rehabilitation Svcs	Topeka
Pat Johnson	Board of Nursing	Topeka
Mitzi Richards	Homecare	Manhattan
Vern Roberts	KSNA	Topeka
Gayle Koon	KOITC-	Topeka



Kansas Home Care Association · 4101 West 13th Street · Lawrence, Kansas 66046 · (913) 841-2833

To: House Public Health & Welfare Committee  
From: Kansas Home Care Association  
Date: January 31, 1990  
Subject: H.B. 2594, an Act concerning in-home care services

On behalf of the Kansas Home Care Association, I want to express my appreciation for this opportunity to testify in support of H.B. 2594.

The Home Care industry, within our state, plays an increasingly important role in our health care continuum. The growing numbers of frail elderly, the rising costs of institutional care (hospital and nursing home), coupled with the "early dismissal" philosophy resulting from the DRG system, have served to make home care, not just a preferred health care option, but in many instances, a necessity for the ill or disabled. We provide not only the highly skilled services of nurses, therapists, etc., but a wide variety of support services that are not strictly medical in nature. We serve all ages and all levels of need, from the acutely ill to the chronically disabled.

As the demands for our services continue to grow, our providers have faced increasing difficulty in meeting the needs of their communities. In a society who's policy makers continue to show institutional bias, home care constantly struggles with inadequate reimbursement and over-regulation. In recent years, however, our difficulties have been severely compounded by wide spread staffing shortages, professional as well as paraprofessional. Not only are there limited numbers of personnel available, but our home care providers, generally, neither have the financial capability nor the operational flexibility to bid competitively for staff in the health market place.

Consequently, it becomes increasingly important for our providers to be able to use their existing staff in the most effective and appropriate way to maximize their ability to meet the needs of their clients with safe, high quality care. H.B. 2594 creates areas of flexibility within our system that will help us do that. Section 1 (k) will allow our nurses to delegate to a home care paraprofessional selected nursing procedures...procedures which are currently being routinely performed, as allow under the law, by the patient himself, his family members, or any individual who will not be paid for his services. The R.N. would make a professional judgement as to whether the procedure was appropriate and could be safely done for that particular patient, in his situation, by a specific paraprofessional. The R.N. would train the paraprofessional and be responsible for supervising the situation. Quality would be insured through the professional responsibility, and liability, of the nurse and the home care

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attn #1.

agency. The necessary care would be provided, while freeing the R.N.'s time so that her professional skills may be used in a more demanding situation.

Section 2 (g), of H.B. 2594, creates a new level of paraprofessional, the Personal Care Attendant (PCA). This level is less highly trained than the home health aide and provides strictly supportive care, rather than health related services. The Kansas Home Care Association feels that this level of worker is greatly needed for the "maintenance" type of care required by the long term care patient: the chronically ill, frail, or disabled who's health situation is stable and of a low acuity level. As the PCA would not be caring for the more fragile patients that require skilled care, we feel that the 40 hours of required training is appropriate and adequate. Consequently, we recommend that lines 147-148 be changed to: "Courses of instruction for personal care attendants shall not be less than 40 hours." The availability of this category of worker would free agencies to focus the services of their home health aides on the needs of the more acutely ill. In addition, it should help with the recruitment of paraprofessionals by offering a more attractive entry level position for those individuals unable, or uninterested, in investing the time (110 hours) or money to become a home health aide.

It should be noted, however, that at this time there is some question as to whether Medicare certified agencies would be able to use the Personal Care Attendant. Due to a recent stricter interpretation, it is the position of the Health Care Finance Administration (HCFA) that the Medicare Conditions of Participation apply, in their entirety, to all patients serviced by a Medicare certified agency, regardless of payment source (Medicare, Medicaid, private insurance, or private pay). And, the only paraprofessional level recognized by Medicare is the home health aide. This interpretation is currently causing an enormous burden to our agencies and we have been lobbying for months to get HCFA to recognize the different needs of different acuity levels (support care vs. acute care). Although we have been informed by our national association that HCFA has conceded that long term care needs are different, and probably should have different requirements, no changes have been made to date. Consequently, it must be kept in mind that, initially, the Personal Care Attendant might only be utilized by private duty, non-Medicare certified, agencies. Ultimately, as more attention is focused on long term care services vs. acute services, we feel convinced that HCFA will allow the use of PCA's for non-Medicare, low acuity patients.

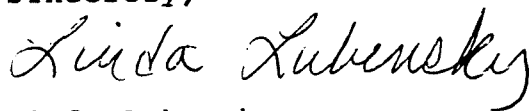
Finally, we would like to recommend the removal of Section 3 (c), which currently requires our home health aides to complete the nursing home aide course prior to advancing to the home health curriculum. Much that is included in that course is specific only to the nursing home environment, and not home health. New federal Medicare requirements (OBRA) for the training of HH aides

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and nursing home aides have been released; they have emphasized their intent to treat each position separately rather than "piggybacking" the home health aide requirements on to those of the nursing home aide. We feel strongly that our state should do the same, as it begins its revisions of our state program to bring it into compliance with the federal regulations. It is our hope that a new paraprofessional curriculum system will be constructed in Kansas, which will use the Personal Care Attendant course as a basic "core" course, upon which the completion of additional hours would bring certification for other levels (HH aide, nursing home aide, medication aide, etc.). This stairstep system, which begins at a more basic level, could eliminate the unnecessary hours and redundancy that currently exists in our HH aide course requirement. However, before any such re-working can begin, we feel that Section 2 (c) must be eliminated.

We are grateful for your consideration and are ready to provide any additional information that you might find helpful.

Sincerely,



Linda Lubensky  
Executive Director

P/W  
1-31-90  
attm #1  
39.3



TO: The House Public Health and Welfare Committee  
FROM: Marceil Lauppe, RN, Executive Director  
Douglas County Visiting Nurses Association, Inc.  
336 Missouri, Lawrence, Kansas  
DATE: January 31, 1990  
SUBJECT: House Bill No. 2594

I appreciate the opportunity to testify in support of House Bill No. 2594. I am the Director of the Douglas County Visiting Nurses Association. Our agency carries a current caseload of 330 patients, three times our local hospital's daily census. The 330 patients are equally divided between our Acute Care and Long Term Care Departments. Professional and para-professional staff make over 3,200 home visits per month. With 21 years of experience in the home health care field, I am committed to quality home care to assist the ill, frail, old, and handicapped to be home in their familiar surroundings where they want to be. I have a commitment to preserve, protect and promote nursing and a realistic vision of progression of the professional nurse in the health care team.

On a Friday afternoon in December, 1987, a State SRS representative came to our home health agency and described a 26-year old young man with muscular dystrophy (MD) who spent his days in a wheelchair and his nights in bed with a portable respirator on to take over when deteriorating chest muscles failed. This young man, who was dependent on SRS for assistance, was determined to live independently. SRS' request to VNA was to have an aide assist this man to bed each night, to put on his respirator that his mother had been doing for years at his home in another town. That seemed a reasonable request.

A night-time respirator is common for victims of MD. In the summer, MD camps are full of children with respirators at night so they will be able to rise the next day and do activities with the same lay volunteers who put the campers' respirators on at night. Our agency's long-term care program director had volunteered as a nurse in MD camps on her summer vacations, and has seen many volunteers manage the simple external respirator.

This nurse felt she had aides who were very capable of being taught the procedure. As a precaution, a call was made to the State Department of Health and Environment and then to the State Board of Nursing. It was discovered that a registered nurse could teach such a procedure to a family member or friend, but not to a paid care giver. The procedure could not be taught to an aide who was state certified, because she was being paid.

A nurse takes many risks, but not a straight-forward risk which would jeopardize her license and place an agency caring for 900 patients per year at a liability risk. What happened???--the mother hired a student with no health background and taught the procedure to him. Would it not have been better for a nurse to train an aide with health background and training? Someone who would be regularly supervised? It's only logical!

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1-31-90  
attm # 2*

Section 1 (k) in H.B. 2594 would allow a professional nurse to delegate to paid caregivers in the home who in the nurse's professional judgement are capable of performing needed procedures. There are nurses without vision who would tell you nurses give away all their duties, which threatens their profession. Nonsense! In this century, there was a time when only physicians took blood pressures. As medicine advanced, that was handed down to registered nurses and in time to aides. Thirty-five years ago, student nurses were just beginning to be taught to start IVs, formerly a physician's job.

As medicine and technology advances, no group in the health care team can stand still and be blind to logic, which could be detrimental to those dependent on assistance. As a professional, a nurse should be allowed to delegate to paid caregivers who in the nurse's professional judgement are capable of performing needed procedures.

Section 2 (g) in H.B. 2594 addresses a new level of aides, Personal Care Attendants (PCA). As technology has advanced in health care, we have a growing population of elderly who are living longer and individuals with chronic illness who in previous generations would not have lived to reach old age. Demand for care to the chronically ill is increasing. It is reasonable and often most economical to provide care to those individuals at home where they want to be.

Current state regulations require an aide to have 110 hours of training and pass two state exams. That level of training is not necessary for quality care in long-term care for the chronically ill at home. The home care industry needs a level of training which reflects needs of the chronically ill, not only those of the acutely ill.

A new level of care givers, Personal Care Attendants, would provide that. This person would provide, under supervision, personal care and environmental support, but not health related care. Forty hours of training would assure adequate skills.

Passage of this bill would also provide the opportunity for agencies to develop an aide career ladder and enhance recruitment, a major problem as demands for long-term care at home increases.

I thank you for your time and commitment to the citizens of Kansas.

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Attn #2  
Pg. 2



FOR MORE INFORMATION CONTACT  
Terri Roberts, J.D., R.N.  
Executive Director  
Kansas State Nurses's Association  
(913) 233-8638  
January 31, 1990

## HB 2594 AN ACT concerning In-Home Care Services

Chairman Littlejohn and members of the Public Health and Welfare Committee, my name is Terri Roberts R.N. and I am a registered nurse representing the Kansas State Nurse's Association. Thank you for the opportunity to speak on H.B. 2594.

As you may suspect, any proposed changes in the Kansas Nurse Practice Act K.S.A. 65-1113 are of great concern to Registered Nurses. Licensure laws of health care personnel were originally designed to protect the public through the limited use of titles. Today, Nurse Practice Acts continue to protect the public by limiting individuals performing nursing services, to those who are licensed to do so.

Currently the more than 22,000 R.N.'s in Kansas are responsible for supervising LPN's, LMHT's, Certified Medication Aides, Nursing Homes Aides, Home Health Aides and other unlicensed personnel employed by agencies providing health care in a variety of settings.

There are actually three issues being presented in HB 2594 as they apply to Home Health Services. The first is the new exemption to the Kansas Nurse Practice Act which is very broad in nature to allow unlicensed individuals under the direction of a licensed professional nurse to perform selected nursing procedures.

The second is the addition of a new category of health care worker within the home health industry entitled "**personal care attendant**". The duties of this person who must be supervised include patient assistance with nutritional and environmental support, personal hygiene, feeding, and dressing. Health related care is excluded from the domain of a personal care attendant in this bill.

Thirdly, to set the standard for the education of a "**personal care attendant**" for a course instruction not to exceed 40 hours in length and to make the necessary changes in the home health licensing laws to accomodate this new category of worker. The Kansas State Nurse's Association has for some time been concerned with the current requirement of 110 hours for all home health agency aides. If we'll remember back in 1988 during the interim the issue of unlicensed personnel performing services for the handicapped was studied.

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Attm. # 3

HB 2594  
January 31, 1990  
Page 2

Part of that study was to include home health aides, educational preparation, but it was not addressed at that time. We now see this proposal to add a new category of health care worker within the home health industry with a 40 hour training requirement. There have been some issues raised relative to whether or not personal care attendant is the most appropriate term and we would support a change that would make it clear that there is no conflict with the personal care attendants that are currently hired by handicapped individuals as that term is used rather generically throughout the country. We would support the addition of a new category of worker within the home health agency industry with specific distinctions between a "personal care attendant" and a home health aide, and what their scope of practice is going to be.

The Kansas State Nurse's Association does not support the changes recommended in the first section of the bill specifically on line 16 page 2 of the bill to add a new category of exemptions to the nurse practice act. We believe that the exemption that was added after the 1988 legislative interim during the 1989 session, currently the new (n) on line 30, should meet the needs of the home health industry relative to individuals who can assist "an individual in need of home care". We believe that the new (k) is repetitive and unnecessary at this time, and see no need for it to be included in this bill.

Thank you again for this opportunity to speak.

PKW  
1-31-90  
Attn #3  
pg. 2

Thank you for giving me the opportunity to testify before your committee today in support of HB 2594.

My name is Bernadina Knipp and I am assistant executive director of the Visiting Nurse Association of Greater Kansas City. I have been a registered nurse for the past 36 years and have spent the last 26 in home health care with the Visiting Nurse Association (or VNA).

As you may know, the VNA is a non-profit home health care agency that has served the Kansas City area for the past 99 years. We currently serve five counties in Missouri and Wyandotte, Johnson and Miami counties in Kansas.

One of my responsibilities at the VNA is strategic planning. In looking towards the future of home health care, the aging of our population and the need for long term care is an environmental factor that is already influencing and will continue to have a dramatic impact on the home health care industry.

HB 2594, which establishes the category of a personal care attendant, is one measure that will help meet a very important need of the aging population--assistance with personal care and other activities of daily living. Bathing, shampooing, shaving, dressing --even getting out of bed are all tasks we take for granted. Yet meeting personal care needs for the handicapped, the infirm, or the incapacitated chronically ill persons, their spouses or family caregivers can be a monumental task. National reports state that an individual's inability to perform activities of daily living is one of the most common factors leading to nursing home placement.

PAW  
1-31-90  
Attm #4

I firmly believe that personal care service is one of the safest and most cost effective methods of assisting in the management of our senior citizens' care so they may remain in their own homes. Yet in Kansas, personal care service is not available or affordable to many persons in need. Home health care agencies simply cannot afford the cost associated with a 90 hour certified nurses aide training session plus 20 additional hours of home health aide training without passing the cost on to the client.

For the potential employee, the costs, in time and money, is often prohibitive. For example, the cost for a certified nurses aide training program through the Kansas City, Kansas Vo Tech School is \$75,- \$300 if the person lives out of state. In addition, the extended 2 week training makes it difficult for a potential employee who depends on a steady income to forego a paycheck in order to complete a 90 hour training program.

HB 2594 will help alleviate the inadequacy of personal care programs in Kansas in several ways:

# 1. By relieving the shortage of personnel. Shorter training requirements will allow the employee who depends on a steady income to receive a paycheck sooner, and it will attract persons who are interested in assisting the elderly with personal care but who do not want to complete the time consuming training of a certified nurses aide.

# 2. It will reduce the cost of training to the home health agency and therefore make the provision of personal care services more attractive and more affordable to clients.

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Attn # 4  
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#3. It will offer a more appealing entry-level position to persons interested in a health care career. The establishment of a personal care attendant will also provide a career ladder for persons who may want to move up to the level of a certified nurses aide or a home health aide.

I would like to say that based on my experience, the establishment of a personal care attendant category will in no way jeopardize a patients safety or the quality of care delivered.

The VNA has provided personal care services to Missouri residents in their home since 1974. The curriculum for training our caretakers is a 24 hour course. This course consists of 16 hours classroom experience and 8 hours of one on one in-home training supervised by an experienced home care registered nurse. In the past 16 years, we have found this curriculum to be a very cost-effective method of training personal care employees while at the same time ensuring the safety of our patients and the quality of care delivered. Of course, the success of our program is largely due to careful screening of applicants and employing only those individuals who are mature, caring and who have a sympathetic attitude toward assisting the handicapped and incapacitated clients.

I have seen personal care services work in Missouri without compromising safety or quality and I know it can work as well in Kansas.

If the state of Kansas is to facilitate the delivery of much needed and affordable services to our aging population, HB 2594 must be radified.

*P. H. W.  
1-31-90  
Attn # 4  
0293*

# Kansas State Board of Nursing

Landon State Office Building  
900 S.W. Jackson, Rm. 551  
Topeka, Kansas 66612-1256  
913-296-4929

Lois Rich Scibetta, Ph.D., R.N.  
Executive Administrator

Patsy L. Johnson, R.N., M.N.  
Educational Specialist

Janette Pucci, R.N., M.S.N.  
Educational Specialist



Belva J. Chang, R.N., M.N., J.D.  
Practice Specialist

TO: The Honorable Representative Marvin Littlejohn, Chairman,  
& Members of the House Public Health & Welfare Committee

FROM: Patsy L. Johnson  
Acting Executive Administrator

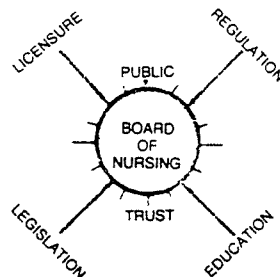
RE: HB 2594

DATE: January 30, 1990

Thank you Mr. Chairman for the opportunity to comment on HB 2594. The Board have asked me to express their continued concerns with regard to changes in the Nurse Practice Act which will allow unlicensed individuals to perform procedures in patient's homes which fall into the realm of nursing care. It is routine practice that patients are discharged from hospital settings back to their homes with the family being taught to perform nursing procedures so patients may continue to recover at home. The Board is fully supportive of all individuals being able to be maintained in their homes if at all possible. It is understood that by this exception to the Nurse Practice Act, these patients who do not have family and are unable to perform certain procedures for themselves, that by having a home health aide, the patients may maintain their home status.

I think it is important to point out that in instances where the patient or family are taught the procedures, a licensed professional nurse demonstrates the technique involved and asks for return demonstration of the procedure until either the patient or the family can perform it without difficulty. I think a similar practice should be implemented for the home health aide.

The Board is fully in opposition for a list of procedures to be established and that all home health aides be taught those procedures with no further supervision occurring. If



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*1-31-90*  
*Attn. #5*



the home health aide is in fact representing a family member, then each patient's care should be individualized and the home health aide should be supervised by a licensed professional nurse in learning the particular procedure for that specific patient. True, if the home health aide has some nursing background, he may learn at a quicker rate than a patient's family, thus less supervision may be needed. A further legal liability exists for the supervising nurse and home health aide if the procedure is not carried out correctly since the home health aide is being paid for services.

In preparing for implementation if this bill is passed, then rules and regulations will need to be drafted similar to those for school settings under Article 15, Performance of Selected Nursing Procedures in School Setting, Regulation 60-15-101 through 60-15-104. Only in having detailed regulation as to what may be done under these circumstances, do we have any way of assuring safe care to those individuals, such as the elderly and handicapped with long term medical problems and limited family assistance, who wish to remain at home and not be institutionalized.

We have no opposition to the establishment of a new category "personal care attendant." Again, with the expansion of what home health aides may do, the new classification would provide for a division of services that may be offered.

In conclusion, I wish to say that we have reservations with regard to HB 2594. With adequate regulation and supervision of unlicensed individuals who would have an expanded role in the care of patients in the home setting, we feel that although there are some risks to the public, that the good to patients would outweigh the negative aspect.

Thank you for this opportunity to comment Mr. Chairman.  
I would be happy to respond to questions.

PLJ:bph

PAK  
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attn #5  
Pg. 2

Our ~~Needs~~ Are In  
The Right Place ...

At Home  
In Jefferson  
County



# JEFFERSON COUNTY HEALTH DEPARTMENT AND HOME HEALTH AGENCY

604 Liberty, Box 324  
Oskaloosa, Kansas 66066  
(913) 863-2447

ADMINISTRATOR  
County Health Officer  
Debbie Nickels, R.N.

Thank you Mr. Chairman and the Public Health and Welfare Committee in allowing me to testify in favor of the change to the Kansas Nurse Practice Act.

I commend you on your progressive influence on the role nurse's are playing in the Jefferson County community. With recent legislative changes (SCHOOL NURSE DELEGATION ACT) our health department nurses have been allowed to improve school health policy and quality of care to students within the six school districts in Jefferson County.

We can also better serve those in our community through self directed care (HB 2012) to provide instructed and supervised services to clients in their homes.

You can now take this one step further, by making the change in the Nurse Practice Act to allow performance in the home setting of selected nursing procedures, to accomplish activities of daily living for a client at home. The procedure would be performed only after instruction and competency shown in performing the task.

We are trying to assist clients to stay in their own homes by providing a needed service, there by costing the client and society less in out of home services. (i.e., nursing home, hospital, emergency room).

The School Nurse Delegation Act and HB 2012 allow for delegation to non-liscensed persons, why can't our nurse's function the same way with our own supervised aides?

Through HB 2594 there would be a change in the Kansas Statute which would allow our agency to use a new level of staff (Personal Care Attendant) to provide a client with assistance in daily living activities, not health related. Since 1984 with Area Agency on Aging funding our health department has provided a non-skilled care bath program. Due to no current division of aide levels we have to use our more costly Home Health Aide's to provide the basic personal care for our "bath" program. If less costly personal care attendants could be used the number of senior citizens served could be increased.

In closing, liscensed home health agencies and county health departments have policies and procedures to follow that help to guarantee consumers/clients quality service. As any home care nurse can attest to, the aides through their intimate, hands-on service, are our number one public relations advocate. In using the Personal Care Attendant's and delegation of nursing tasks our department would be enhancing our programs in meeting the growing long term care need, but still provide appropriate and accountable community services in Jefferson County.

Debbie Nickels, RNC  
Administrator

*PK/ell*  
*1-31-90*  
*attn #6*

First, I would like to take this opportunity to thank you for allowing me to give testimony concerning the use of *personal care attendants* referred to in House Bill No. 2594.

I'm Ramona Derousseau R.N., B.S.N., from Concordia, Kansas and am presently working as the administrator of Cloud County Health Department. I have three years experience as a home health nurse and have supervised our home health aide during that time.

The duties of this *personal care attendant* do not vary much from the duties of the present home health aide's. Our home health aide, as all others, is in the home caring for the frail elderly, basically on her own. She calls me when a problem arises, but I do not stand at her side through each individual visit. Her education requirements at present are 120 clock hours of training. This consists of the Geriatric Aide class; which I have also been involved with as an instructor for the past eight years, and the Home Health Aide class which is designated to specific care in the home.

As an instructor for the geriatric aide class, I am very familiar with the curriculum and know that all 90 hours are vitally important to the instruction of these persons. There is no way that this could be accomplished in less than half of that time, 40 hours as is recommended in House Bill No. 2594. The present 90 hour class enables the students to be eligible to work in an institution, et. hospital or nursing home, under the direct supervision of an L.P.N. or R.N. who is in the same building at all times. Home health aides do not have this convenience. They at present need another 30 hours training to be able to work in the home with indirect supervision.

We have worked very hard to establish this criteria to ensure quality care. Why would we want to decrease this; especially when our home health patients are requiring even more critical care than ever before. Let me share with you an example of what can or what will most likely happen if the requirements are reduced.

We work closely with our local SRS who provides "homemaker services" in many of the homes of our patients. One of their present homemakers has, what I consider, the equivalence of 40 hours of training. She was involved with one of our home health patients. During a visit in which she was cleaning, our patient experienced some dizziness. The homemaker; I'm sure out of concern, took it upon herself to contact the patient's physician who prescribed medicine over the phone. The following morning the R.N. from our agency made a home health visit and discovered what had taken place. The medicine that was prescribed was one that would not only alleviate her dizziness but would also increase her blood pressure. The problem with this is, the client was already hypertensive and borderline to being hospitalized for that very condition. When the nurse arrived, the patient had not taken any of the medicine, but had she done so, it is very likely she could have suffered a stroke. Who would have been responsible if this

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had been a *personal care attendant* who was only trying to help, but didn't have the proper training to enable her to know this was beyond her capabilities---or the agency who hired her under the requirements as stated in House Bill No. 2594 as a *personal care attendant* ? It has been my experience in the medical field; giving a little education is sometimes more dangerous than none at all.

In summary, I would like to reiterate the importance of continuing the education requirements as is. This is the only way we can continue to provide quality care in the home. I, as an administrator, would have no need of anyone with any less education requirements than are presently required of the home health aides. With the increasing severity of our home health patients due to many Medicare cutbacks we can not at this time cut back on training requirements of the caregivers at any level. I could not ask my staff to be responsible for the partially trained *personal care attendants* that House Bill No. 2594 recommends we use.

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Attn. # 7  
pg 2.

Re: Bill # 2594

Jan. 31, 1990

I am Terri Wahle a RN Certified in Gerontological nursing. I am director of Eldercare Home Health Services, Junction City, Kansas for the past 7 years. I am also a nurse educator of both the Nurse Aide and Home Health Aide curriculum and have been actively teaching for four years by the standards set forth by the State of Kansas. This past year I also worked on a technical committee sponsored by the Kansas Dept. of Education, setting up an occupational profile for Home Health Aide, for use by instructors. The purpose being to show prospective employers, skills, knowledge and competencies of students in HHA training. I am here because I have an overwhelming interest in this bill and want to express both fact and opinion related the the proposed "personal care attendant" as part of a home health agency.

I am opposed to the proposed implementation of a "personal care attendant" and because of past experience will attempt to site some specifics of why I am.

1. In my experience as an instructor, I have found that many individuals persuing employment as a health care worker do not have common knowledge and basic non-medical skills such as: washing hands, personal hygiene tasks, lifting and transferring, feeding a patient, and diet and meal preparation.

2. The basic course for Certified Nurse Aides is 90 clock hours of which after 40 hours of classroom and clinical experience they receive a certificate stating they know the basic skills at a beginning level but are not proficient. The students can work only on a temporary basis with this permit. They are supervised by the instructor in both classroom and clinical experience until the 90 hours are finished. When they are employed the Director of Nursing, Head Nurse, and the health care team supervise and guide the student during their employment until their State Board Exam is taken. The Personal Care Attendant would receive 40 hours of instruction and then be essentially "cut loose" to work in an agency without passing a state examination which tells the student and employer that they know the minimum of required skills to safely care for a person in home.

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In order for a CNA (Certified Nurses Aide) to work as a Home Health Aide the student is required to pass the CNA state exam take an extra 20 hours from an approved course and pass another exam. This tells me as an instructor that this student is sharp enough to further his or her education in nursing care.

In both classes which amount to 110 hours total the student learns not only the basic "non medical" tasks such as nutritional support, bathing, dressing, personal hygiene etc. but also are taught to be more responsible in an unsupervised situation. They are taught how to respond in emergencies, family crisis, and home safety just to name a few.


I find it very difficult to visualize a person with just 40 hours of training could be ready to work in a home environment. In the basic course for nurse aides the student learns: how to make a bed body mechanics, transferring, some infection control, skin care, feeding a patient, bathing, and personal care. For the students who come into the class with no medical background and do not have this training I as an instructor am a little uneasy about giving out that certificate. In other words I feel the student with beginning skills is "not" ready to go into the home environment.

I have concerns about the following areas, What will happen to:

1. Orientation to and functions of homecare? (They would be part of a home care team)
2. Observation skills and communication of important facts of that home patient?
3. Homemaking tasks and laundry? (You would be suprised!)
4. Adaptation of personal care activities such as bed shampoos and assistive devices and use?
5. Special Procedures : bowel and bladder care, prosthesis care, oxygen care, Heimlic manuever for adults?
6. Continuing education?
7. Who is liable for the minimally trained persons?
8. Supervision of Personal Care Attendant?

I do not feel that the skills mentioned above and other necessary skills can be learned in a 40 hour course with no previous background knowledge. I am concerned about the supervision necessary and liability of employing a PCA. Who is liable for his or her actions? These are a few of the things we need to look at realistically when you propose a personal care attendant as a part of a home care team.

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*1-31-90*  
*Attn #8*  
*092*

 We in the State of Kansas have had quality educational standards for our CNA's and HHA's and we remain ahead of our suggested federal guidelines for the nurse aides. I feel like this would be a step in the wrong direction. Let's take this back to the drawing board and look at the educational standards. As a home care nurse I want better educated, better trained and responsible people as employees. In the case of a personal care attendant, I feel that I would be taking a great risk in hiring minimally trained employees. Let's keep quality care for the at home patients. Thank You.

Terri Wahle RN.C.  
Junction City, Ks.

PXW  
1-31-90  
Attn # 8  
pg 3

*Testimony for the House Public Health & Welfare Committee  
Wednesday, January 31, 1990*

*Mitzi Richards, Executive Director*

*Homecare*

*Manhattan, Kansas 913-537-0688*

*Good afternoon. My name is Mitzi Richards. I am the Executive Director at Homecare, a community based non-profit home health agency serving Riley County. I have been working with Homecare nine of its' twelve years of operation.*

*I appreciate the opportunity to present information in support of House Bill 2594. I believe this bill to be a practical approach to addressing the growing need for health and supportive services at home while not compromising quality.*

*For a variety of reasons, Kansans are living longer. But the price we're paying for our longevity is that more older Kansans are living with chronic illnesses - that do not require hospitalization or other types of acute treatments, but which are not curable. Diabetes, dementia, arthritis and heart disease are examples of these conditions.*

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1-31-90  
Attn # 9*



*House Bill 2594 provides an exemption to the Kansas Nurse Practice Act that would allow certain basic nursing tasks to be delegated to qualified care providers. Also, the creation of the Personal Care Attendant, an individual qualified to provide care needed by chronically ill or disabled clients, will provide assistance with bathing, medications, meal preparation and housekeeping. This Bill allows the flexibility necessary for the increasing number of persons to remain living at home and is essential to meeting critical staffing shortages.*

*Most of the state's elderly--fully two-thirds--reside in rural areas, where the economy limits the ability of health care providers to bid competitively for nursing services. In Riley County the shortage of Registered Nurses is a strong argument for allowing Registered Nurses to direct practical care procedures to trained and experienced Home Health Aides.*

*Also, when appropriate, delegation of nursing tasks can significantly reduce the costs of providing care. Medicare and Commercial Insurance carriers do not cover the services needed by persons living with chronic diseases. At Homecare all non-insurance covered services are offered based on a sliding fee scale. However, we are aware of individuals who choose not to use our services due to the cost. Last year in Riley County, Homecare delivered 19,856 hours of which clients contributed \$ 135,426 to this care. Clients paying less out*

of pocket for "custodial care" is direct incentive for managing their care in the most cost effective environment - at home.

**Case Example:**

I'd like to share a story about Mrs. Johnson, a Homecare client like many others. Mrs. Johnson is confined to a wheelchair because of post-polio syndrome -- the after-effects of polio which she battled as a young mother more than 30 years ago.

Mrs. Johnson is a widow, living on a modest fixed income in a Manhattan housing project. Her only family are living in California. Because her medical condition is chronic, her Medicare benefit does not cover the cost of this care provided by a home health aide.

Mrs. Johnson has daily Personal Care Attendants who cook her meals and maintain her apartment. A Home Health Aide, assists with bathing, toileting, grooming and transferring in and out of wheelchair. Often, due to her condition, Mrs. Johnson experiences skin break-down. When this occurs, regulations require a Registered Nurse apply topical ointment and dressings.

Would this Bill allow

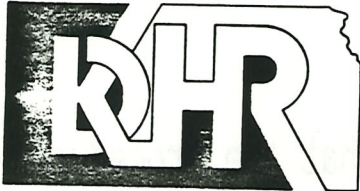
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*Allowing the Personal Care Attendant to provide personal care would significantly reduce the "revolving door" Mrs. Johnson is often frustrated by and can't afford.*

*I commend this committee for seriously considering a proposal that I feel will be of great benefit to persons like Mrs. Johnson and others who are at risk of being inappropriately institutionalized. I believe this Bill represents a significant step forward in designing practical delivery of long term care at home. I urge your support for H.B. 2594. It will impact the lives of thousands of chronically ill Kansans.*

KANSAS

DEPARTMENT OF HUMAN RESOURCES



COMMISSION ON DISABILITY CONCERNS

1430 S.W. Topeka Boulevard, Topeka, Kansas 66612-1877  
913-296-1722 (Voice) ● 913-296-5044 (TDD) ● 561-1722 (KANS-A-N)

Mike Hayden, Governor

Ray D. Siehndel, Acting Secretary

January 31, 1990

TESTIMONY ON HB 2594

Presented to the House Committee

hb2594hc

on Public Health & Welfare

by Michael Lechner, Executive Director

Mr. Chairman and Members, thank you for this opportunity to submit testimony on HB 2594. The Commission on Disability Concerns recognizes the need of home health care agencies to have a less restrictive category of care-giver.

We thought the passage of HB 2012 in the 1989 session met this need. The exemption in the Nurse Practice Act made by HB 2012 allows unlicensed personnel to perform "attendant care services". These activities are those which a physician or registered nurse determines to be safely performed in the home setting and which the disabled person would be capable of performing were he or she physically capable. The exemption in HB 2012 is also extended to those who provide care on behalf of a disabled person. It seems to us that home health care agencies

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*attn #10*

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provide care on behalf of such people and that the procedures described in Section 4(k) are duplicative of attendant care services. We question the necessity of HB 2594 as it appears to be duplicative and superfluous. If our opinion is unfounded and there is a legitimate need for HB 2594, substantial concern remains over the terminology used to identify this particular class of care-giver. The proposed term, "Personal Care Attendant" presents a problem because it is a term which is commonly used in the disability community to identify those unlicensed individuals who are not necessarily employed by a home health agency. The use of a term or title which is in the public domain in order to regulate those people who use the title will present questions of fraud for misuse or abuse of the title.

The situation is similar to proposing the title for this class of care-givers to be "cook" for example. If adopted, everyone who is currently referred to as a cook would be subject to the requirements of this legislation. Therefore, we recommend striking the term "personal care attendant" and supplanting it with a title which is not in common usage. Perhaps "Home Health Care Assistant" or something akin would be more appropriate.

Again, thank you for your consideration of these remarks.

#10

10-2



# KANSAS FEDERATION OF LICENSED PRACTICAL NURSES, INC.

Affiliated with NATIONAL FEDERATION OF LICENSED PRACTICAL NURSES, INC.

January 31, 1990

TO: House Public Health and Welfare Committee  
FR: Elizabeth E. Taylor, Legislative Consultant to KFLPN  
RE: Opposition to HB 2594

Thank you for the opportunity to present the opinion of the Kansas Federation of Licensed Practical Nurses in opposition to the provisions of HB 2594. It is our strong position that no licensed procedures either nursing or medical should be performed by those not duly trained and credentialed under existing state law to perform such procedures. Further it is our fear that allowing this type of provision of health care to certain populations says to the public and to those groups that they do not deserve the same level of skilled health care provided to others.

Some might argue that these changes are needed due to the current nurse shortage. In contrast, there is a sizeable supply of available, competent, and committed Licensed Practical Nurses who have been transferred into other areas of health care service or displaced out of the health care field. While their basic preparation is not intended to prepare them to enter the critical care and specialty areas, on-site training, continuing education and years of experience have allowed them to be the appropriate care giver in the situations we are discussing today. These nurses are both duly trained and credentialed.

In this instance we are told that the basic philosophy is one of self-care. For practices which would be performed by oneself in one's own home, we have no objection. However, we fear we are seeing the time grow closer when quality of care is losing ground. The Licensed Practical Nurse under the supervision of a Registered Nurse can be hired to knowledgably perform the nursing functions in settings such as discussed in these hearings at a reasonable cost while still affording the consumer protection under the Nurse Practice Act.

During the 1987 Legislature KFLPN presented testimony both to the Public Health and Welfare Committees of the House and Senate and to the Kansas State Board of Nursing on allowing non-licensed personnel to function in nursing capacities for those school children with special needs. KSNA and others testified that this was a special compromise to keep these children in school and that this compromise would extend to this population only. Agreeing with the problem at hand, KFLPN still presented its opinion that this precedent was a poor one and unworkable in the long-range health care plan. We maintain that this still holds true. Last year however, another special population was added to the list of those receiving care from non-traditional caregivers. We have already gone beyond the original compromise of nursing services. Which special group will be placed into a category of unskilled nursing care next?

Currently, the nurse providing many of these nursing functions is the Licensed Practical Nurse under supervision of the Registered Nurse. These valuable resources has provided this type of care throughout the last half century and today stands ready to continue in this capacity. Kansas licenses approximately 7,000 Licensed Practical Nurses. They should be utilized to provide the care for which they were trained rather than allowing untrained health care to be given.

PAW  
1-31-90  
Attn #11



January 31, 1990

To: The House Committee on Public Health and Welfare

From: Mike Oxford, Independence Inc.

Re: House Bill 2594

House Bill 2594 appears to contain two main objectives. It adds a further exemption to the Nurse Practice Act and provides for a lower level of certification for a new class of home health agency employees. I will each address each of these objectives separately and then provide an overview.

The new language of subsection (k) would allow home health agency employees to perform routine nursing procedures at a lower cost. This would benefit both consumers facing cost caps and the home health agencies which often have a hard time providing services at Medicaid/Medicare levels of reimbursement. Our concern is that this amendment not in any way detract from the rights of self-directed consumers as outlined in last year's House Bill 2012.

This bill also provides for a lower lever of certification of home health employees who would be providing "non-health related care". Non-medical related care is, perhaps, a better term as eating, hygiene, etc. are obviously "health-related". These individuals would, after 40 hours of instruction, be certified as "personal care attendants". As above, we agree with the concept of providing lower cost care for procedures which really do not necessitate extensive training and specialized knowledge. We do object, however, to the appropriation of the term "personal care attendant" by home health agencies exclusively. The reason for this objection is that if the term were used in the state Medicaid Waiver, for example, an independent living agency who used the term would have to meet all requirements that a home health agency would. We would agree to Home health Aide I and II or any other appropriate term, just not personal care attendant. As a matter of fact, independent living and self directed programs have more historical "ownership" of this term than do medical model entities such as home health agencies.

As an overview, we support efforts to provide lower cost services as long as they are quality services, and we understand that home health agencies perceive the need to cover additional liabilities related to the nature of their businesses and the broad range of people that request services from them. We continue to be concerned that individual's liberty interests are not eroded and that the term "personal care attendant" not become the sole property of home health agencies.

Thank you for allowing me the opportunity to present my views.

Lawrence Independent Living Resource Center • 1910 Haskell • Lawrence, Kansas 66046 • 913-841-0333

INDEPENDENCE INC.

*PAW  
1-31-90  
attm # 12*