

Approved _____

Date

3/27/90

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by SENATOR ROY M. EHRLICH at _____
Chairperson

10:00 a.m./pxx on March 21, 1990 in room 526S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research
Norman Furse, Revisor's Office
Sandra Nash, Committee Secretary

Conferees appearing before the committee:

The Chairman called the meeting to order, calling the attention of the Committee to H.B. 2745. The first proponent to appear was Joseph Kroll, Kansas Department of Health and Environment.

Mr. Kroll presented testimony supporting the passage of H.B. 2745 on behalf of the Board of Adult Care Home Administrators and the Kansas Department of Health and Environment. This bill exempts persons who are members of a recognized church whose religious teachings prohibit the acquisition of formal education from having to complete formal education requirements to sit for examination to become a licensed adult care home administrator. Such an administrator may only practice in a home owned and operated by such a recognized church. (Attachment 1)

The Chairman called the next proponent, Kenneth Dyck, Church Representative, Newton.

Mr. Dyck said he was of the Church of God in Christ, Mennonite, and was here to support the bill. They have an adult care home in Montezuma, the Bethel Home, since 1949 and the Moundridge Manor at Moundridge since 1976. They consider the operations of these facilities a success and have been well served by able administrators. Other than the exemption requested in H.B. 2745, they feel they can conscientiously comply with the existing requirements for administratorship of adult care facilities. (Attachment 2)

Staff Furse said this particular legislation, would allow individuals qualify under the particular language here, based upon this recognized church or religious demonination. To not have to obtain the usual educational requirements, but it would still require the examination be taken.

Mr. Dyck said that they are not in conflict with the examination the State of Kansas gives for Nursing Home Administrators. In fact, we feel it's a good qualification check upon the ability of the individual and we're not opposed to that in any way. So far we have not had one person fail that test.

The Chairman called the next proponent, Marion Becker, Administrator of the Bethel Home in Montezuma, Kansas.

Mr. Becker said he would cover some of the qualifications they believe they need to have to qualify as a nursing home administrator. One the first things an administrator must do, he must have in his heart with love, serve one another. Some of the important areas are personality, committment(true committment), you would have a problem as you meet the chanllenges that are involved in as an administrator. I believe he needs to be an honest and moral character. One thing that is a must, he must have a caring heart,

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 526S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 21, 1990

and this is some of the things that education can't do for you. Mr. Becker said he went through the 8th grade and he took the GED test and some night classes in accounting to have some of the things that I knew I would need to do the job I was set out to do. I had six months education under another administrator and involved in the continuing education that is required. And as a rule I usually get up to 80-90 points a year, requirement is 60 points for continuing education. And that is because there are some areas I feel are very important and I try to get all the education in those areas that I can.

Mr. Becker said an administrator has so many areas that he needs to be involved in: patient care, accounting and staffing. He has to have a good relationship with his staff and also adhere to all the State Rules and Regs. It is quite a challenge.

Mr. Becker said in Bethal Home they provide 5.1 resident hours per resident and costs, right now, average of \$44.29. Recently, the national average was \$82.00 for cost. And the state average in our area is \$60.00. And we staff with 80 hours of R.N. and it's a little beyond the staffing requirements right now. We provide, with he felt was very important, the State requires that we provide 1.75 hours per resident. Last year we averaged 3.58.

In another area he felt was very important, Mr. Becker said was to have a good dietary department. Good food and a pleasant environment.

Senator Hayden asked how higher education is accomplished in view of the beliefs of the religion.

Mr. Dyck said they feel that there is a definite difference between a nurse and someone that handles life, gives medication and gives shots and things of this nature. And so they have a church policy that we have those amongst us, particularly women and a few men, that feel like they have been called to the nursing profession. We talk with them, visit with them on home congregational basis and if we feel they are sound in their faith and character, we allow them to go on to nurses training. The other side of the coin we feel that a Nursing Home Administrator and many other areas of life, which we face, that we do not need this type of education.

Senator Hayden said you did allow classes for accounting.

Mr. Dyck said there again we would make some exceptions.

Senator Reilly asked what compliance level do you have in other states with regard to the qualifications of a Nursing Home Administrator?

Mr. Becker said the only other home that we have in the U.S. is in California and he didn't know how they have handled it.

The Chairman called the proponent, Marilyn Bradt, Kansans for Improvement of Nursing Homes, Inc.

Ms. Bradt said Kansans for Improvement of Nursing Homes, Inc., would adamantly oppose any general weakening of the standards and qualifications of nursing home administrations, but will not oppose this very limited exception. (Attachment 3)

Senator Hayden asked if she felt that these people are qualified to be nursing home administrators?

Ms. Bradt said yes.

Seantor Hayden asked if she had been in either home.

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MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
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Ms. Bradt said she hasn't been in either of these. She has looked at their survey report and they are remarkably free of deficiencies. I have talked to people who have been in these homes and I feel very comfortable about the quality of the homes.

Senator Hayden said his grandmother was in the home in Montezuma and it was a "cadillac."

The Chairman called the Committee's attention to H.B. 2594. The Chairman called the first proponent Gina McDonald, Program Administrator, Head Injury Program, Department of Social and Rehabilitation Services.

Ms. McDonald said she was appearing in support of H.B. 2594. The first challenge is to identify provider agencies who will implement consumer controlled attendant care services. The second issue related to the number of people available and willing to provide attendant care services. This continues to be a challenge in rural as well as urban areas. (Attachment 4)

The Chairman called the next proponent, Michael Lechner, Executive Director of the Kansas Commission on Disability Concerns, The Department of Human Resources.

Mr. Lechner said he is appearing in support of H.B. 2594. He said this bill exempts employees of home health agencies from formal curriculum training if such employees provide only attendant care services. Independent living agencies are exempt from the home health statutes. It makes an allowance for the parents and guardians of HCBS recipients under 18 years old to direct attendant care services. (Attachment 5)

Senator Langworthy said that on Page 1 of the testimony, "Such employees would be trained by the self-directed recipient of in-home care or the person directing the care of the recipient." Does this mean the person needing the service can do the training.

Mr. Lechner said that attendant care services are those kind of things where if you go into a physician and the physician says, for instance, well, you have diabetes and you will need to give yourself a shot once a day. Ordinarily you would go home and do that. But if you are incapable of doing that, functionally limitation, you train someone to do that for you. Those are the kinds of services. Attendant care services have to be approved by a physician as those services are that type of care you would otherwise deal with yourself.

The Chairman called the next proponent Linda Lubinsky, Kansas Home Care Association.

Ms. Lubinsky appeared in strong support of H.B. 2594. In Section 4 they are requesting the the word "physical" (line 25, page 7), as used to define the individual's impairment, be omitted. Many of their patients, who require attendant care services, have cognitive impairment rather than physical impairment. An exemption to the Nurse Practice Act allows for the provision of these attendant care services "directed by or on behalf of an individual in need of in-home care." They feel that this language addresses those individuals who might not have the cognitive abilities to direct their own care, but have available some other entity to take on that responsibility. (Attachment 6)

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MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 526, Statehouse, at 10:00 a.m./~~p.m.~~^{XX} on March 21, 1990

The Chairman called the next proponent, Terri Roberts, R.N., Kansas State Nurses Association.

Ms. Roberts said they are supporting H.B. 2594 which will allow home health agencies to provide unlicensed/untrained care givers to those disabled individuals wanting to self-direct their care, without violating the Home Health Licensing Laws. (Attachment 7)

Senator Hayden asked if Ms. Roberts agreed with Ms. Lubinsky's statement that some paraprofessionals are over-regulated by the federal government?

Ms. Roberts said yes.

The Chairman called the Committee's attention to a letter from Bernadina Kipp, R.N., Assistant Executive Director, Visiting Nurse Association of Greater Kansas City, supporting H.B. 2594. (Attachment 8)

The Chairman called opponent to H.B. 2594, Richard Morrissey, Kansas Department of Health and Environment.

Mr. Morrissey said that the Kansas Department of Health and Environment were against H.B. 2594 because the changes proposed in basic home health aide training may create more problems than are solved. Further consideration should be given to these issues in light of the significant federal changes now being implemented in the home care field. (Attachment 9)

Chairman said the bill came out of the House with the amendments. Did you have an opportunity to present your position to the whole committee.

Mr. Morrissey said they had an opportunity to meet with the sub-committee and in fact expressed our views. We did not see this draft of the bill tho until it went to the Committee. So there wasn't an opportunity to comment on the bill in the form it is in now.

Senator Langworthy asked if Mr. Morrissey was saying they were not present at all at the Sub-Committee hearings?

Mr. Morrissey said they were present at all the hearings. The draft that is before the Committee now wasn't really developed except conceptually at the last sub-committee hearing. But it wasn't a draft until it went to the full committee. While there had been discussion about all these issues, I don't want to say we weren't involved in discussing it, we didn't what is before you until it was acted on by the Committee.

Senator Langworthy asked if they were present at the Committee meetings.

Mr. Morrissey said yes.

Senator Langworthy asked if it would be possible for Mr. Morrissey to boil his statement down to one page as there are a number of the Committee that are not sure what was said.

Mr. Morrissey said yes.

Staff Furse said that one of the previous conferees mentioned a possible amendment, the word "physical" being deleted from the definition of individual in need of in-home care. Is that

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room 526S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 21, 1990

or does the department have any position on that?

Mr. Morrissey said it is not one that they had considered and it would appear to broaden it even further in terms of who would be eligible then under than exemption. If you took out limitation in the term "physical" it would appear to broaden it even further.

Staff Furse said along that line, the definition of home health services, with the insertion of attendant care services, you're suggesting that may open up a number of other entities that may need to be licensed. Some formal way of providing these kinds of services. But you're not suggesting that would require individuals acting on their own need to be licensed. You're using the word entity.

Mr. Morrissey said Mr. Furse was correct. We're looking at agencies that are now not licensed, not required to licensed because they're providing a level of care below that which is defined in the definition of home health services which appears on Page 3. That definition, the way we understand it, when you include attendant care services now includes everything that's within attendant care so that would bring a number of those back in because that definition includes that list of things that they're doing. But even once they're brought in and the license is required then, there's really no training requirement. There's no impact. I don't think that was the intent.

Staff Furse said that the current exemption in the statute for individuals providing attendant care services, do you think is adequate to exempt them from licensure in the Home Health Act.

Mr. Morrissey said yes.

Senator Hayden asked if Staff Furse would bring a statement as to his legal definition to exactly what would, I don't want everybody to have to go out and be recertified.

The Committee adjourned at 11:00a.m., and will reconvene Thursday, March 22, 1990 at 10:00a.m.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 3/21/90

(PLEASE PRINT)

NAME AND ADDRESS

ORGANIZATION

Richard Morrissey

KDHE

Cathy Rooney

KDHE

Julia Schlobahn

KDHE

ALAN COBB

KS RESP. CARE Soc.

Marilyn Bratt

KINH

Linda Lukensky

KS Home Care Assoc

John Kelley

SPS

MIKE Lechaw

KDHR

Joe Kover

KDHE

Rep. Ellen Samuelson

Leg

Marion Becker

Bethel Home

Carolyn Becker

Denise Jantz

Gary Jantz

Edwin Classen

memonite Church

Betty Classen

Ken Otte

DPS

Tom Grees

KS Hosp. Assn.

Marta Gabeck

Com. on
Disability Concerns

Please continue on next page.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 3/21/90

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Mike Lechner

Com. on
Disability Concerns

Markus J. J. J.

AS/SRS

Linn McDonald

AS/SRS

Bill Coker

KDOA

Greg Rosen

KDHE

M. Helen Hall

KHCA

Pat Johnson

Board of Nursing

Melba Gaultney

SRS - Rehabilitation Services

Kerr R. Lewis

CHRISTIAN SCIENCE COMMITTEE
ON PUBLICATION FOR KANSAS

Terril Roberts

Kansas State
Nurses' Association

Mark Intermill

Kansas Coalition on Aging

Cathie Saal

SRS Div. Mod. Programs

Kenneth Dyck

Church of God in Christ ^{Arkansas}

Charlotte Pickett

KSNA

Bill Dean

Peterson & Associates

Michael J. Wright

Syntex Labs, Inc.

Jim Youally

NFIB / Kansas



State of Kansas

Mike Hayden, Governor

Department of Health and Environment

Division of Health

Stanley C. Grant, Ph.D., Secretary

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TESTIMONY PRESENTED TO

THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

BY

THE BOARD OF ADULT CARE HOME ADMINISTRATORS

House Bill 2745

This testimony is being presented on behalf of the Board of Adult Care Home Administrators. The board is the regulatory body responsible for carrying out the provisions of statutes (KSA 65-3501, et. seq.) requiring adult care home administrators to be licensed. The board consists of seven members appointed by the Secretary of Health and Environment. Two members are adult care home administrators, two are consumers, and three are health care professionals. The Kansas Department of Health and Environment provides staff support to the board.

KSA 65-3504 establishes statutory examination standards for licensure as an adult care home administrator. This statute also authorizes the Board to establish, by regulation, educational requirements.

Under existing regulation (KAR 28-38-19) a candidate for licensure must complete 60 college credit semester hours. Effective July 1, 1990, a candidate must possess a baccalaureate degree.

This bill amends KSA 65-3504 by exempting persons who are members of a recognized church whose religious teachings prohibit the acquisition of formal education from having to complete formal education requirements to sit for examination to become a licensed adult care home administrator. Such an administrator may only practice in a home owned and operated by such a recognized church.

The board during a public meeting February 8, 1990, approved a motion to support passage of House Bill 2745.

Presented by: Joseph F. Kroll, Director
Bureau of Adult and Child Care, KDHE
For the Board of Adult Care Home Administrators

Nadine Burch, Chairperson
Board of Adult Care Home Administrators

March 21, 1990

*SPH & W
Attachment #1
3/20/90*

Charles Konigsberg, Jr., M.D., M.P.H.,
Director of Health
(913) 296-1343

James Power, P.E.,
Director of Environment
(913) 296-1535

Lorne Phillips, Ph.D.,
Director of Information
Systems
(913) 296-1415

Roger Carlson, Ph.D.,
Director of the Kansas Health
and Environmental Laboratory
(913) 296-1619

Appeal by the Church of God in Christ, Mennonite for
Passage of House Bill 2745

We, the Church of God in Christ, Mennonite would like to appeal to you as our lawmakers in regard to the passage of House Bill 2745.

We appreciate the laws of our state and enjoy the protection provided by them. As long as we can conscientiously do so, we wish to abide by them.

The two nursing homes owned and operated by the Church of God in Christ, Mennonite in Kansas are: Bethel Home, a licensed intermediate care facility for 60 residents at Montezuma, Kansas; and Moundridge Manor, a licensed intermediate care facility for 67 residents at Moundridge, Kansas. As conference entities, these facilities were built, and are owned and operated by the Church. A board of directors elected from the respective area congregations is responsible for the oversight of the facilities. A majority of the residents as well as most of the staff are members of the Church.

In selection of administrators, a high priority is placed on the spirituality and natural ability of the applicants. Maturity, and the ability to relate well with people are also considered essential.

The Church of God in Christ, Mennonite, has historically discouraged its members from acquiring higher education. This is clearly illustrated in the lifestyles of our members. Many are self-employed in agriculture or small businesses while others are employed in local industries. Most are educated through eighth grade; a few have completed high school; very few are educated beyond high school.

We feel it is essential and appropriate that our administrators come from our church membership. We believe God gives special gifts or talents to individuals for special work. Our experience has been that as individuals, selected by the board, apply their God-given abilities they are able to fill the position of administrator in a way that has proven to be an asset to the care homes and the communities.

Bethel Home at Montezuma, Kansas has been in operation since 1949 and Moundridge Manor at Moundridge, Kansas has been in operation since 1976. We consider the operations of these facilities a success. We have been well served by able administrators. We are convinced that within our membership there are able individuals who can serve these institutions successfully in future years.

Other than the exemption requested in House Bill 2745, we feel we can conscientiously comply with the existing requirements for administratorship of adult care facilities.

SPH+W
Attachment #2
3/21/90

The Moundridge Manor had its beginning in 1974. The estimated cost was \$690,000. The actual cost was \$640,000, much of the labor being donated by the ten area churches. Money for this project was raised by various donations and interest-free loans.

Donations from Ten Area Churches	\$285,422
Nelson Krehbiel Donation	10,000
Alfred Koehn Donation	10,000
Other Donations from Community	47,743
Gift Day	11,000
Private Loans	136,100
Mennonite Union Aid Loan	75,000
Christian Public Service Loan	10,000
Other Loans	49,800

The Manor has never paid interest, thereby saving Medicaid thousands of dollars.

The staff of our Home consists of 80 to 85 percent members of our faith. Two-thirds of the residents are also our members. Approximately one-half are covered by Medicaid. We have been operating at a 98 percent full capacity with a waiting list.

Moundridge Manor has been giving 2.8 hours nursing care per resident. Bethel Home provides 3.3 hours as compared with the state requirement of 1.75 hours.

Our base rate per resident per day in a semi-private room is \$34. Private rooms are \$37 per day. There are five supplementary charges of \$2 each, depending on the amount of care a resident requires. The maximum charge is \$44 for a semi-private room, \$47 for a private room.

Following is a break-down of Moundridge Manor costs:

	Our Cost	Medicaid Limit
Administration	\$ 3.25	\$ 5.91
Property	3.00	6.74
Room & Board	10.08	13.07
Health Care	20.80	23.10



Kansans for Improvement of Nursing Homes, Inc.

913 Tennessee, suite 2 Lawrence, Kansas 66044 (913) 842 3088

TESTIMONY PRESENTED TO
THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE
CONCERNING HB 2745
ADMISSION TO ADULT CARE HOME LICENSURE EXAMINATIONS

March 20, 1990

Mr. Chairman and Members of the Committee:

KINH has consistently supported the requirement that candidates to take the examination for licensure as an Adult Care Home administrator have at least a Bachelor of Arts degree. We remain supportive of that concept, as it has been clearly demonstrated that candidates with that educational background are much more likely to pass the examination and to be successful as administrators than those with lesser educational qualifications. We are convinced, also, that the business of nursing home administration has become so complex that a strong program of education and training is essential.

We can agree, however, that there are other important factors involved in operating a nursing home successfully as well, factors of character and values less readily measurable than education. In the case of the religious denomination requesting this legislation, we know that they have demonstrated their ability to maintain conformity with all state and federal standards and regulations with notable success. These administrators might be said to have earned special consideration.

KINH would adamantly oppose any general weakening of the standards and qualifications of nursing home administrators, but will not oppose this very limited exception.

*SPN + W
Attachment #3
3/21/90*

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Testimony before

The Senate Committee for

Public Health and Welfare

Regarding

House Bill 2594

at 10:00 A.M. on

March 21, 1990

Room 526-S, Capitol Building

Gina McDonald
Program Administrator
Head Injury Program and HB 2012
Telephone # 296-2458

presented on behalf of:

Jan Allen, Commissioner
Adult Services
Telephone # 296-6959

SPH + W
Attachment #4
3/21/90

Testimony

House Bill 2594

Chairperson Erlich and members of the Committee, thank you for the opportunity to testify before you today. My name is Gina McDonald and I am with Adult Services, Department of Social and Rehabilitation Services (SRS). I am the Program Administrator for Head Injury and HB 2012.

SRS recommends passage of HB 2594 which will exempt Independent Living Agencies from the definition of a home health agency and will further create a larger pool of potential providers of attendant care services through home health agencies.

SRS, as a result of the passage of HB 2012 by the 1989 Kansas Legislature, is developing methods to implement a consumer controlled option for attendant care services.

HB 2594 would resolve two of the major challenges facing the Department in implementation of HB 2012. The first challenge is to identify provider agencies who will implement consumer controlled attendant care services.

HB 2594 would allow Independent Living Agencies to be medicaid provider agencies. Although they will not provide medical services, they will provide payroll assistance by writing checks to the attendants and paying all required State and Federal taxes, and workers and unemployment compensation. They may also serve as trainers and information sources so that consumers can hire, train, schedule and evaluate their own attendant. Since United States Health Care Financing Administration (HCFA) does not allow payments to be made directly to consumers, and because some consumers will request assistance in being an employer, the Department sees the advantage of using Independent Living Agencies for these roles.

The philosophy of consumers having control of services provided to them has its roots in the independent living movement. Further, independent living advocates initiated and supported passage of HB 2012.

As a result of the IL movement that began in the 60's, Independent Living Centers and programs were established in the 70's in Kansas to provide services and to advocate for the rights of persons with disabilities. Their philosophical base and their history of providing consumer directed services made them the natural choice to be provider agencies for HB 2012.

The second issue relates to the number of people available and willing to provide attendant care services. This continues to be a challenge in rural as well as urban areas.

HB 2594 would create a level of employee through home health agencies who could provide only attendant care services. SRS anticipates that since training requirements are not high for this level of service, the Department and/or consumer could contract with home health agencies to provide attendant care services at a more reasonable cost. It could also increase the available pool of people who could provide attendant care services.

Thank you for the opportunity to testify today. I would be happy to answer questions regarding our testimony.



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

TESTIMONY IN SUPPORT OF HB 2594

Michael Lechner, Executive Director

March 21, 1990

The purpose of House Bill 2594 is to facilitate the provision of in-home care to Kansans with disabilities. Some of these individuals are in the SRS Home & Community Based Services program, others are not. HB 2594 has three major provisions.

1) It exempts employees of home health agencies from formal curriculum training if such employees provide only attendant care services as defined under KSA 1989 Supp. 65-6201 amended. This statute is a result of HB 2012 which was passed last session. Such employees would be trained by the self-directed recipient of in-home care or the person directing the care of the recipient. Ancillary to this change is a provision which eliminates a course of instruction as a prerequisite to taking another course of instruction in order for home health aides to be certified. These provisions in HB 2594 will allow SRS and other payers to purchase attendant care services from home health agencies at a lower cost per service hour.

SPH & W
Attachment #5
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2594sphw; page 2

2) Independent living agencies are exempt from the home health statutes. Independent living agencies are defined in the bill and the definition mandates that such agencies be recognized by the secretary of SRS in order to qualify for the exemption. This provision will allow SRS to contract with independent living agencies to provide attendant care services.

3) HB 2594 makes an allowance for the parents or guardians of HCBS recipients under 18 years old to direct attendant care services. A change relevant to this allowance was made to the definition of the term "individual in need of in-home care" by striking the word "adult" thus making it clear that such individuals who are minors may receive attendant care services at the direction of a parent or guardian.

We support the provisions in HB 2594 because we believe they will enhance the availability and affordability of in-home care. Consequently, the effect of HB 2594 will lessen the likelihood of institutionalization for people who would not otherwise be able to avail themselves of in-home care. We respectfully request the Senate Committee on Public Health and Welfare to pass HB 2594 favorably. Thank you for this opportunity to address you.

\2594sphw



To: Senate Public Health & Welfare Committee
From: Kansas Home Care Association
Date: March 19, 1990
Subject: H.B. 2594, an act concerning in-home care services

On behalf of the Kansas Home Care Association, I would like to express my appreciation for this opportunity to testify in strong support of H.B. 2594, as amended by the House Committee.

The Home Care industry plays an increasingly important role in the health care delivery system of Kansas. Institutionalization is no longer the only option available for those needing health care and related services. As a consequence of technological advances, decreasing financial resources, and the growing numbers of seniors and the physically disabled, Home Care is fast becoming the "safety net" of our health care system. A strong and viable alternative to institutionalization, Home Care provides all levels of care, from the skilled services for the acute patient to the support services for the individual with long term care needs.

As most people want to remain in their homes and communities, when possible, the demand for Home Care service continues to grow at a fast pace. However, our Kansas Home Care providers face many problems in meeting this increasing demand for services. We are a highly regulated industry, both by state and federal laws. Many of these laws, which were primarily created to deal with acute care services, do not recognize, or reflect, the different service needs and requirements that go along with the emerging field of long term care. In addition, severe staffing shortages, in our rural as well as urban areas, makes it imperative for our providers to find ways to 1) attract and retain new workers, and to 2) more effectively utilize the skills of their existing staff.

H.B. 2594 builds new flexibility, into our state laws, that we feel will significantly assist Home Care providers in addressing these problems. In Section I, a new level of home care paraprofessional is acknowledged within the HH statutes, the "care attendant". This category of worker is ideal for the low-acuity, long term care patient, is generally non-medical in nature, and will receive training as determined appropriate by the agency. By providing a worker to do the personal care, largely non-medical tasks, this bill will allow providers to better focus the time of their HH Aides on the patients with more acute medical conditions. Although initially, only non-Medicare-certified agencies will be able to use this "care attendant", we feel that in the future more and more providers will open separate, non-certified corporations to specifically meet long

SPH+W
Attachment #6
3/21/90

explanation

term care needs. Additionally, we feel that being able to offer this new position will enhance our recruitment efforts for paraprofessionals. In the job market, entry level individuals are often unwilling or unable to make the time and money investment required to become a HH Aide (110 hour curriculum for certification). This new position will offer an attractive option to many of those individuals.

Section 2, of H.B. 2594, eliminates the requirement that an individual must certify as a nursing home aide before being allowed to advance to the Home Health Aide course. Currently our state law does not give an individual a choice, but demands that they get both certifications to become a HH Aide. We feel that this is unfair and creates an unnecessarily lengthy curriculum for those only interested in a home care career. With the new federal OBRA regulations on HH Aide training, that go into effect in August, now is a very appropriate time to re-evaluate and re-design our certification system. We are eager to work with Health & Environment on eliminating the redundant and unnecessary portions of the curriculum for our Aides, but feel that this statue change is the first step in expediting that effort.

Section 4, of H.B. 2594, amends the definition of "individual in need of in-home care". By removing the word "adult" the language will now reflect that attendant care services are needed by individuals of all ages. We are very supportive of this expansion. In addition, we request that the word "physical" (line 25, page 7), as used to define the individual's impairment, be omitted. Many of our patients, who require attendant care services, have cognitive impairment rather than physical impairment. An exemption to the Nurse Practice Act allows for the provision of these attendant care services "directed by or on behalf of an individual in need of in-home care". We feel that this language addresses those individuals who might not have the cognitive abilities to direct their own care, but have available some other entity to take on that responsibility (parent, relative, guardian, Home Health Care provider). Technically all cognitive disorders are the result of a physical impairment/condition...however, we ask that you delete the word "physical" to clarify the intent of the statue.

The Kansas Home Care Association asks that you make this one amendment and support the passage of H.B. 2594. We are grateful for your consideration and offer our assistance in any way you might find helpful.

Sincerely,

Linda Lubensky

Linda Lubensky
Executive Director



FOR MORE INFORMATION CONTACT
Terri Roberts, J.D., R.N.
Executive Director
Kansas State Nurses's Association
(913) 233-8638
March 21, 1990

HB 2594 AN ACT concerning In-Home Care Services

Chairman Ehrlich and members of the Senate 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.

The Kansas State Nurse's Association opposed the original 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. However, this section was amended in the House Public Health and Welfare Committee to provide latitude for home health agencies to provide unlicensed/untrained care givers to those disabled individuals wanting to self-direct their care, without violating the Home Health Licensing Laws.

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We are pleased that the Nurse Practice Act will not be amended again, and hope that this new language is accepted.

Thank you again for this opportunity to speak.

SUPPORT OF HOUSE BILL 2594

My name is Bernadina Knipp, RN, Assistant Executive Director, Visiting Nurse Association of Greater Kansas City. We provide home care services to residents of Johnson and Wyandotte Counties in Kansas. We have provided a service similar to the personal care attendant in Missouri for the past 9 years and find that 20 hours of training is safe and sufficient for this level of care provider.

I am writing in support of House Bill 2594. This bill will provide for another level of care provider in Kansas called personal care attendant. With the increase in the aging population, we need options for personal care assistance at a safe and affordable cost in order to help persons remain at home. The personal care attendant will be providing a service that would be performed by the client were they physically or mentally able to care for themselves. The personal care attendant does not need the intensive 110 hours of training now required by the Home Health licensure law to do simple tasks such as assisting with bathing and other personal care needs. Less training time will reduce the cost of service. I would suggest deleting physical from Page 7 (e), "Individuals in need of in home care," means any functionally disabled individual in need of attendant care services because of physical impairment who requires assistance, etc.

Rationale: Individuals may be mentally impaired (such as Alzheimers) as well as physically impaired.

SPH & W
Attachment #8
3/21/90



State of Kansas

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TESTIMONY PRESENTED TO

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

BY

THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

House Bill 2594 (as amended)

Background

House Bill 2594 has been extensively amended to include provisions of House Bill 2803 and House Bill 2830. Although all three pieces of legislation deal with home care, they are not necessarily interrelated. The result is the bill before you today, which is quite complex and has profound impact upon established home health agency licensure and health care personnel training programs. I would like to take this opportunity to address a number of issues related to House Bill 2594.

Home Health Agency Licensure Issues

- 1 The first matter is the easiest to deal with: The inclusion of "independent living agencies" in new Section 1 as an exemption to the home health agency licensure law. The inclusion of this term was first introduced in House Bill 2830 and would assist the Kansas Department of Social and Rehabilitation Services in implementing the "self-directed care" concept through its home and community-based services program. Our staff has been involved in the structuring of a definition of "independent living agencies" which we believe incorporates key terms which will sufficiently limit the exemption.
- 2 New Section 1 also amends KSA 65-5101 by: (a) adding "attendant care services" to the "home health services" definition, (b) defining "attendant care services," and (c) amending the definition of "home health aide." The addition of "attendant care services" to the "home health services" definition will, we believe, lead to considerably more regulatory intervention in all types of in-home services. KSA 1989 Supp. 65-5201

*SPH+W
Attachment #9
3/21/90*

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(which House Bill 2594 references) defines "attendant care services" as those "basic and ancillary services which enable an individual in need of in-home care to live in the individual's home and community rather than in an institution and to carry out functions of daily living, self-care, and mobility."

However, "ancillary services" are defined as "homemaker-type services" (including shopping, laundry, cleaning, and seasonal chores) and companion-type services (including transportation, letter writing, reading mail, and escorting). These are services which typically would not require a home health agency license or performance by a certified home health aide. The department has identified some entities which provide only the ancillary or homemaker-type services. As part of the "home health services" definition, these service providers would be required to be licensed as home health agencies, although their employees would not be required to receive any training since the new definition of "home health aide" shall not include employees of a home health agency providing only attendant care services.

3 Part of the definition of "attendant care services" includes:

. . . those basic and ancillary services which enable an individual in need of in-home care to live in the individual's home and community . . . Such individual is any functionally disabled individual in need of attendant care services because of physical impairment who requires assistance to complete functions of daily living, self-care, and mobility, including, but not limited to, those functions included in the definition of attendant care services.

This definition would tend to support that all entities providing services to individuals in need of in-home care (functionally disabled individual = large population) would need to be licensed. Yet no training of care providers is required, removing the basic reason for requiring a license. One of the other attendant care services which could be provided is health maintenance activities. This includes, but is not limited to, catheter irrigation; administration of medications, enemas, and suppositories; and wound care if such activities, in the opinion of the attending physician or licensed professional nurse, may be performed by the individual if the individual were physically capable and the procedure may be safely performed in the home.

Home Health Aide Training Issues

In 1985, Kansas led the nation in establishing a home health agency licensure program which included a home health aide training program consisting of 110 hours of classroom and hands-on training. To facilitate the supply of home health aides into the market, the training was specifically "piggybacked" onto existing training modules (see Chart A).

During 1986, on a national level, the Senate Select Committee on Aging heard a report from the American Bar Association concerning home care quality. This report was highly critical of the home care industry and the lack of training given to aides providing various services to the elderly in their homes. Congress reacted by passing PL 100-203 (OBRA 1987) which required home health aides in Medicare-certified agencies to complete a competency evaluation program that meets the minimum standards established by the Secretary of Health and Human Services.

In March 1988, House Report No. 100-39, in reviewing the legislative history of PL 100-203, stated that:

It is the committee's understanding that home health aides . . . provide the bulk of the day-to-day supportive services in the home. Yet, only 13 states now include specific training requirements.

. . . As a result, aides are frequently called upon to provide care or to perform tasks that they are unprepared or ill-prepared to do. The consequences can be, and often are, serious or even life threatening for the beneficiaries receiving services.

The American Bar Association report may have not applied in Kansas since it was one of those 13 states with home health licensure statutes and where all home health agencies were required to employ home health aides who completed a 110-hour training curriculum. The report also stated that new federal law should not supercede any existing state law requiring additional training and competency standards. Since 1986, other states and the Health Care Financing Administration (HCFA) have followed the trend toward requiring such aide training. On August 14, 1989, HCFA established regulations requiring for the first time that Medicare-certified home health aides complete a minimum of 75 hours of training.

We are concerned that at a time other states and the federal government are recognizing the importance of home health aide training that House Bill 2594 may create a number of problems which need not exist.

- 1 One major problem is the establishment of a new curriculum which includes home health aide services separate from attendant care services. In new Section 2 (line 39), the Secretary is prohibited from requiring persons providing only attendant care services as an employee of a home health agency from completing any course of instruction or pass any examination. New Section 2(c) prohibits the Secretary from requiring home health aides from first meeting the nurse aide requirements of KSA 39-936. As the attached chart demonstrates, a number of training curricula utilize KSA 39-936 for their base.
- 2 Some home health providers promote the 75-hour federal curriculum and view the current 110-hour training program as too extensive and too expensive. However, if the course of instruction parallels the federal model, an interesting dilemma is posed for home health agencies attempting to satisfy Medicare requirements. The federal model lists Medicare-required subject matters as appropriate and safe techniques in personal hygiene and

grooming that include: bed bath, sponge, tub, or shower bath; nail and skin care; oral hygiene; toileting and elimination; safe transfer techniques and ambulation; etc. These are attendant care services in House Bill 2594 and would require no training by the individual providing such services (new Section 1[d]).

- 3 Chart A depicts the current training course sequence for the various aide categories used in nursing homes and long-term care (LTC) units of hospitals and home health agencies. The 90-hour nurse aide course is considered the core course that nurse aides and all of the other aides (home health aides, activities directors, and social services designees) must complete. To be an aide in one of the other aide categories, the training must supplement the nurse aide training course with the appropriate module course.

To help expedite the training of home health aides, the trainee may be enrolled in both the nurse aide course and the home health aide course simultaneously.

When the home health aide training curriculum was being developed, the advisory body (consisting of members of the home health industry) made a conscious decision to link the nursing home and home health aide programs together to:

- a Avoid unnecessary duplication in the training of nurse aides and home health aides when the training is essentially the same or would be beneficial to the home health aide,
- b Provide for an increased likelihood of access to training, and
- c Provide for a large labor pool for home health agencies to draw from.

Chart B depicts the breakdown of the 90-hour nurse aide course by subject components. Approximately 70 hours of the 90 hours of the nurse aide course is in what we will term "basic nursing skills." Another 10 hours deal with specific nursing facility-based issues.

Even though the 70 hours of basic nursing skills are taught in a nursing home setting, the applicability to home health aide training has been built in. For example, knowledge of nutritional and fluid needs is a basic nursing care skill. Persons of all age groups require certain nutrients for normal growth and repair. The basic nutrition course covers such topics as the basic four food groups and the recommended dietary allowances of each nutrient for each age group. Nutrition and meal preparation build upon these basic concepts in a home setting. The aide must be able to demonstrate the planning, purchasing, and preparing of balanced, attractive meals in a home setting for the patient. The care plan may specify preparation of modified diets, such as a diabetic, low sodium, or low cholesterol diet. The basic concepts of nutrition must be fully understood so that the aide may apply these concepts into direct practice in the home.

- 4 The heavy emphasis in geriatrics is appropriate to home health aides since approximately 80 percent of the patients being served by home health agencies are 65 years of age and older. Chart C shows that there were a total of 18,024 patients served by Kansas home health agencies in 1987. Seventy-eight percent (or 13,997 out of 18,024) of the patients were 65 years of age or older. In summary, approximately 80 hours (or 88.9 percent) of the training provided in the nurse aide course is designed to be applicable for both nurse aides and home aides, thus avoiding unnecessary duplication in aide training programs.

Attachment D lists the subject contents for the nurse aide and home health aide training curricula. All of the subjects under "Basic Nursing Skills," "Aspects of Aging," and the 20-hour model home health aide curriculum can be classified as required components by OBRA for home health aide training. Only minor modifications to the state-approved curriculum need to be made in order to meet OBRA's curriculum requirements.

The narrative accompanying the federal regulations on home health aides to implement OBRA notes that nurse aides and home health aides essentially provide the same services. Several states, such as Colorado, have come to the same conclusion and are designing programs to meet OBRA which combine training requirements of nurse aides to home health aides in Medicare-certified home health agencies.

- 5 Access to training is another concern in designing the home health aide training scheme. One advantage of placing the bulk of the home health aide training in the nurse aide course is that there is more than 10 times the demand for the nurse aide course and more than triple the number of sponsors for the 90-hour nurse aide course. In Kansas, there are some 10,000 nurse aides employed in the 400 nursing homes with a turnover rate estimated to 60 percent. There are some 800 home health aides and 200 certified home health agencies. In the last six months, 116 sponsors provided one or more 90-hour nurse aide courses all across Kansas (80 nursing homes, 11 LTC units of hospitals, and 25 colleges or vocational-technical schools). During the last six months, 41 sponsors provided one or more 20-hour home health aide courses in Kansas (21 home health agencies and 20 colleges or vocational-technical schools). There is no doubt that sponsors will always be reluctant to provide a course for only one or two trainees but the demand of a 20-hour course on a small home health agency is much less than a 75-hour course.
- 6 Another reason for the utilization of the 90-hour nurse aide course is to provide a larger labor pool of potential home health aides. Some 50,000 persons have been trained as nurse aides since 1977. There are 5,000 persons trained as nurse aides annually. These individuals can become home health aides by completing the 20-hour home health aide course at any time in their career.

Conclusion

The Kansas Department of Health and Environment continues to support the objective of creating an exemption to home health aide training requirements for disabled persons who are able to train and supervise their own attendants. House Bill 2594 expands the exemption more than necessary. The changes proposed in basic home health aide training may create more problems than are solved. Further consideration should be given to these issues in light of the significant federal changes now being implemented in the home care field.

Presented by: Richard J. Morrissey, Deputy Director
Division of Health
Kansas Department of Health and Environment
March 21, 1990

9-6

CHART A

Current Training Sequence
for Nurse Aides, Home Health Aides, Activities Directors,
and Social Services Designees

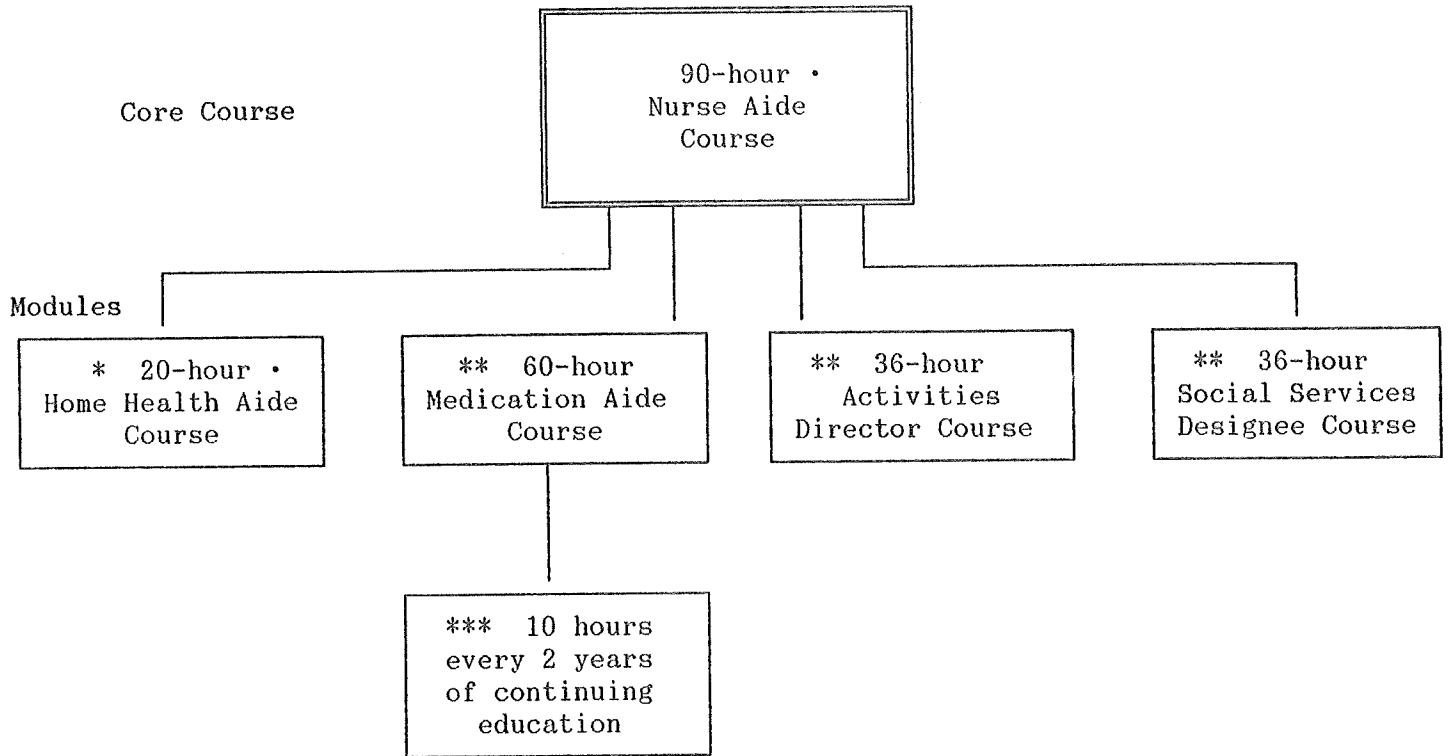


CHART A

- * The trainee may be enrolled in both the nurse aide course and the home health aide course simultaneously.
- ** The trainee must complete the nurse aide course prior to enrolling in the medication, activities director, or social services designee courses.
- *** Only medication aides are required to complete continuing education in order to continue practicing.
- OBRA requires that nurse aides and home health aides who have not been employed for 24 months to retake the training or a "refresher course." Ideally, a refresher course that is designed to emphasize basic nursing skills required of both nurse aides and home health aides would be the most practical approach.

(OBRA refers to the Federal Omnibus Budget Reconciliation Act of 1987 and corresponding federal regulations.)

CHART B

Breakdown of the 90-Hour Nurse Aide Curriculum
by Hours of Subject Components and Their Relevancy
to Home Health Aide Training

9-8

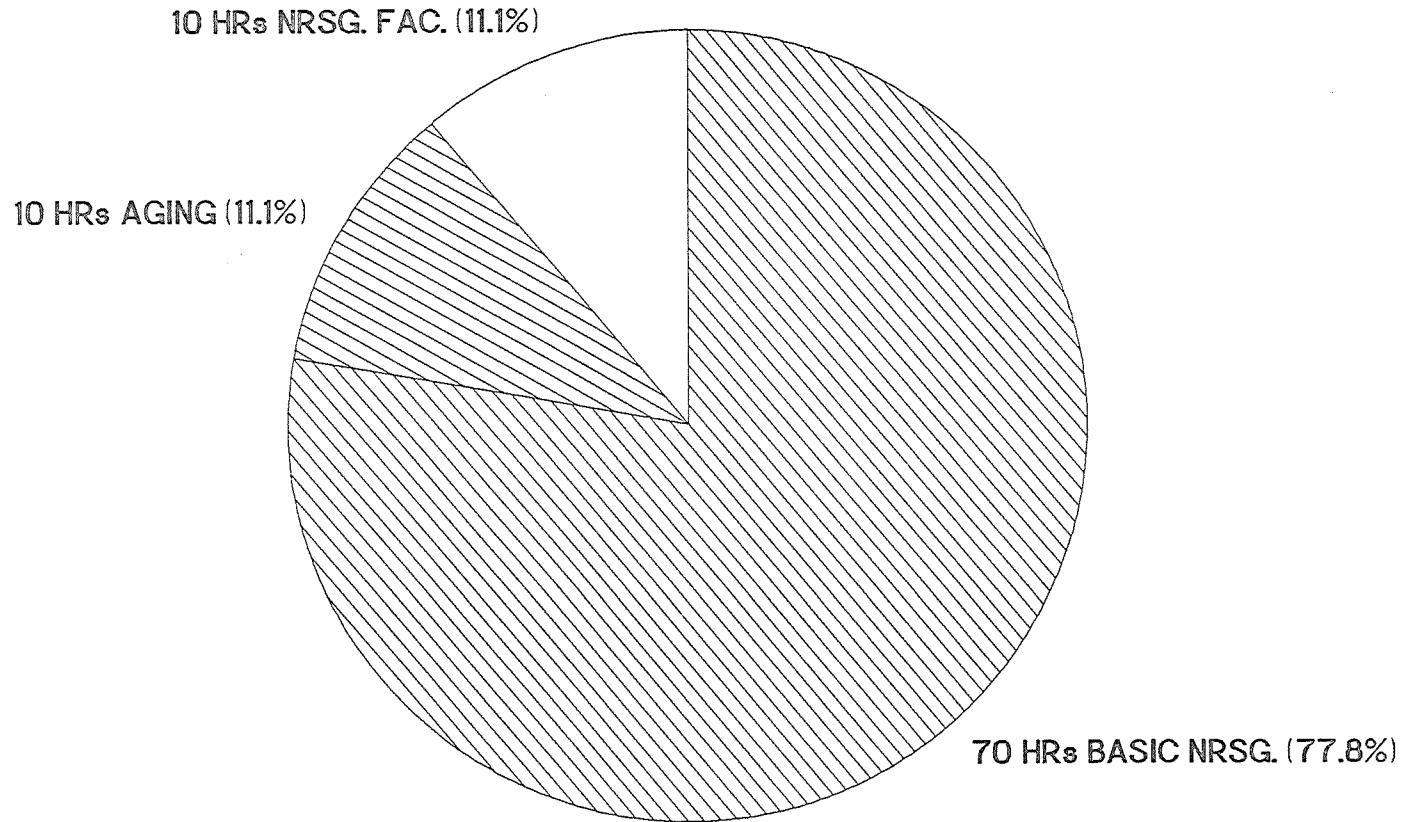
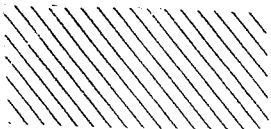


CHART B

Key



- Training relevant and required by the state and OBRA that are applicable to both nurse aides and home health aides



- Training required by the state and OBRA that is only applicable to nurse aides

(OBRA refers to the federal Omnibus Budget Reconciliation Act of 1987 and corresponding federal regulations.)

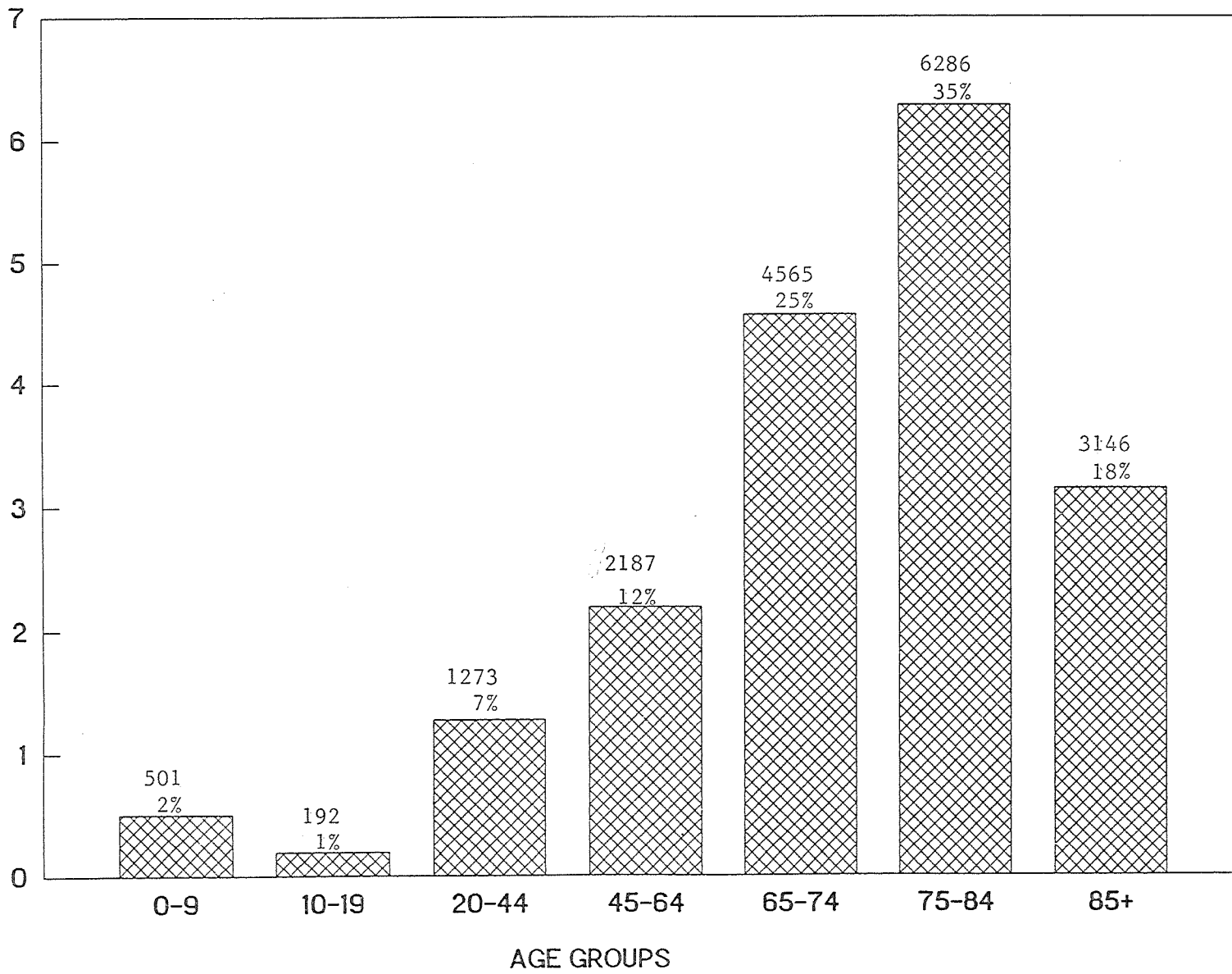
CHART C

NUMBER OF PATIENTS BY AGE

SERVED BY HHAs

9-9

CHART C
NUMBER OF PATIENTS
(Thousands)



Attachment D

Model 90-Hour Nurse Aide Curriculum

Basic Nursing Skill (classroom & clinical hours = 70)

Basic communication skills
Infection control and prevention
Safety
Residents' environment
Cleanliness and grooming
Nutrition and fluid needs and assisting with feeding/fluids
Elimination
Care for dying
Sleep and rest
Observing and measuring vital signs
Observing, reporting, and recording
Basic emotional needs
Principles of body mechanics and moving
Complications of immobility and their prevention
Applying heat and cold

Aspects of Aging (classroom hours = 10)

Stereotypes and facts about aging
Communicating with and caring for confused/dementia/withdrawn
Physical changes accompanying aging
Sexuality in aging

Nursing Facility-Based Issues (classroom & clinical hours = 10)

Working in a nursing home
Using restraints, lifts, and geriatric chairs
Maintaining resident's unit
Isolation
First aid in nursing homes
Emergencies in nursing homes

Model 20-Hour Home Health Aide Curriculum

Orientation to home care
Working with people
Home management
Nutrition and meal preparation
Adapting personal care activities
Mother and baby
Observing clients
Special procedures

NOTE: All subjects under "Basic Nursing Skills", "Aspects of Aging" and the home health aide curriculum are required by OBRA for home health aide training. All of the subjects listed under the nurse aide curriculum are required by OBRA for nurse aide training.