

# Committee Meeting

of

## SENATE LEGISLATIVE OVERSIGHT COMMITTEE

### SENATE CONCURRENT RESOLUTION NO. 36

(Determines that DLPS regulations including hypnotherapy within practice of psychology are inconsistent with legislative intent)

### SENATE CONCURRENT RESOLUTION NO. 62

AND

New Jersey State Library

### ASSEMBLY CONCURRENT RESOLUTION NO. 51

(Determines that proposed Board of Nursing regulations regarding the competency evaluation of homemaker-home health aides are not consistent with legislative intent)

**LOCATION:** Legislative Office Building  
Committee Room 10  
Trenton, New Jersey

**DATE:** June 2, 1994  
1:00 p.m.

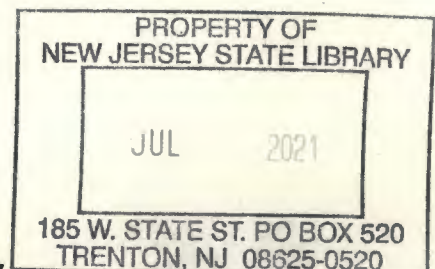
#### MEMBERS OF COMMITTEE PRESENT:

Senator John P. Scott, Chairman  
Senator Andrew R. Ciesla, Vice-Chairman  
Senator Nicholas J. Sacco  
Senator Raymond J. Zane



#### ALSO PRESENT:

Raymond E. Cantor  
Office of Legislative Services  
Aide, Senate Legislative Oversight Committee



***Hearing Recorded and Transcribed by***

The Office of Legislative Services, Public Information Office,  
Hearing Unit, State House Annex, CN 068, Trenton, New Jersey 08625



JOHN P. SCOTT  
Chairman

ANDREW R. CIESLA  
Vice-Chairman

JOHN O. BENNETT  
HENRY P. MCNAMARA  
RONALD L. RICE  
NICHOLAS J. SACCO  
RAYMOND J. ZANE

**New Jersey State Legislature**  
SENATE LEGISLATIVE OVERSIGHT COMMITTEE  
LEGISLATIVE OFFICE BUILDING, CN-068  
TRENTON, NJ 08625-0068  
(609) 292-7676

**COMMITTEE NOTICE**

TO: MEMBERS OF THE SENATE LEGISLATIVE OVERSIGHT  
COMMITTEE

FROM: SENATOR JOHN P. SCOTT, CHAIRMAN

SUBJECT: **COMMITTEE MEETING - June 2, 1994**

*The public may address comments and questions to Raymond E. Cantor or Mark Connelly, Committee Aides, or make bill status and scheduling inquiries to Elva Thomas, secretary, at (609) 292-7676.*

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The Senate Legislative Oversight Committee will meet on Thursday, June 2, 1994 at 1:00 PM in Committee Room 10, Legislative Office Building, Trenton, New Jersey.

The following resolutions will be considered:

SCR-36  
Bassano

Determines that DLPS regulations including hypnotherapy within practice of psychology are inconsistent with legislative intent.

SCR-62  
Sinagra  
ACR-51  
Haytaian

Determines that proposed Board of Nursing regulations regarding the competency evaluation of homemaker-home health aides are not consistent with legislative intent.

Issued 05/27/94



# SENATE CONCURRENT RESOLUTION No. 36

## STATE OF NEW JERSEY

INTRODUCED MARCH 3, 1994

By Senator BASSANO

1 A CONCURRENT RESOLUTION concerning legislative review of  
2 Department of Law and Public Safety regulations pursuant to  
3 Article V of Section IV, paragraph 6 of the Constitution of the  
4 State of New Jersey.

5  
6 BE IT RESOLVED by the Senate of the State of New Jersey  
7 (the General Assembly concurring):

8 1. Pursuant to Article V, Section IV, paragraph 6 of the  
9 Constitution of the State of New Jersey, the Legislature may  
10 review any rule or regulation of an administrative agency to  
11 determine if the rule or regulation is consistent with the intent of  
12 the Legislature.

13 2. The State Board of Psychological Examiners within the  
14 Division of Consumer Affairs of the Department of Law and  
15 Public Safety recently revised the entire regulatory scheme for  
16 the licensure and practice of psychology pursuant to the  
17 "Practicing Psychology Licensing Act," P.L.1966, c.282  
18 (C.45:14B-1 et seq.). As part of this revision, the definition of  
19 the scope of practice of psychology now includes hypnotherapy  
20 among the psychological procedures which may be used in the  
21 provision of psychological services. The board thereby has, for  
22 the first time, included hypnotherapy as a procedure within the  
23 scope of practice of a psychologist.

24 However, section 8 of P.L.1966, c.282 (C.45:14B-8) exempts  
25 from the requirement of licensure by the board members of other  
26 professions who perform work of a psychological nature  
27 consistent with the accepted standards of their respective  
28 professions, so long as they do not hold themselves out to the  
29 public as psychologists or represent that they are licensed to  
30 practice psychology. Until now, hypnotherapists have been  
31 exempt from licensure by the board; however, the new regulation  
32 specifically exempting members of certain professions from  
33 licensure by the board does not include an exemption for  
34 hypnotherapists.

35 3. The Legislature therefore finds that the regulations of the  
36 Department of Law and Public Safety, and more specifically of  
37 the State Board of Psychological Examiners within the Division of  
38 Consumer Affairs of the department, which define the scope of  
39 practice of psychology in such a way so as to include  
40 hypnotherapy (N.J.A.C.13:42-1.1(a)(3); published at 25  
41 N.J.R.4937) and which do not specifically exempt hypnotherapists  
42 from licensure by the board (N.J.A.C.13:42-1.5; published at 25  
43 N.J.R.4945) are not consistent with the legislative intent of the  
44 "Practicing Psychology Licensing Act," P.L.1966, c.282  
45 (C.45:14B-1 et seq.) in that such professions are specifically  
46 exempt from licensure pursuant to section 8 of that act  
47 (C.45:14B-8).

1     3. The Secretary of the Senate and the Clerk of the General  
2     Assembly shall transmit a duly authenticated copy of this  
3     concurrent resolution to the Governor and the Attorney General.

4     4. The Department of Law and Public Safety shall, pursuant to  
5     Article V, Section IV, paragraph 6 of the Constitution of the  
6     State of New Jersey, have 30 days following transmittal of this  
7     concurrent resolution to amend or withdraw the regulations or  
8     the Legislature may, by passage of another concurrent resolution,  
9     exercise its authority under the Constitution to invalidate the  
10    regulations.

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13                     STATEMENT  
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15    This concurrent resolution expresses the finding of the  
16    Legislature that regulations adopted by the State Board of  
17    Psychological Examiners within the Division of Consumer Affairs  
18    of the Department of Law and Public Safety are not consistent  
19    with the legislative intent of the "Practicing Psychology  
20    Licensing Act," P.L.1966, c.282 (C.45:14B-1 et seq.).

21    Specifically, the recently revised regulatory scheme includes  
22    hypnotherapy among the psychological procedures which may be  
23    used in the provision of psychological services, and therefore, for  
24    the first time, hypnotherapy is a procedure within the scope of  
25    practice of a psychologist.

26    However, section 8 of P.L.1966, c.282 (C.45:14B-8) exempts  
27    from the requirement of licensure by the board members of other  
28    professions who perform work of a psychological nature  
29    consistent with the accepted standards of their respective  
30    professions, so long as they do not hold themselves out to the  
31    public as psychologists or represent that they are licensed to  
32    practice psychology. Until now, hypnotherapists have been  
33    exempt from licensure by the board, but the new regulation  
34    specifically exempting members of certain professions from  
35    licensure by the board does not include an exemption for  
36    hypnotherapists.

37    Therefore, N.J.A.C.13:42-1.1(a)(3) (published at 25  
38    N.J.R.4937), which defines the scope of practice of psychology,  
39    and N.J.A.C.13:42-1.5 (published at 25 N.J.R.4945), which  
40    exempts certain professions from licensure as psychologists, are  
41    not consistent with the legislative intent of the "Practicing  
42    Psychology Licensing Act," P.L.1966, c.282 (C.45:14B-1 et seq.)  
43    in that such professions are specifically exempt from licensure  
44    pursuant to section 8 of that act (C.45:14B-8).

45  
46  
47  
48  
49    Determines that DLPS regulations including hypnotherapy within  
50    practice of psychology are inconsistent with legislative intent.

SENATE LEGISLATIVE OVERSIGHT COMMITTEE

STATEMENT TO

SENATE CONCURRENT RESOLUTION No. 36

STATE OF NEW JERSEY

DATED: JUNE 2, 1994

The Senate Legislative Oversight Committee favorably reports Senate Concurrent Resolution No. 36.

This concurrent resolution expresses the finding of the Legislature that regulations adopted by the State Board of Psychological Examiners within the Division of Consumer Affairs of the Department of Law and Public Safety are not consistent with the legislative intent of the "Practicing Psychology Licensing Act," P.L.1966, c.282 (C.45:14B-1 et seq.).

Specifically, the recently revised regulatory scheme includes hypnotherapy among the psychological procedures which may be used in the provision of psychological services, and therefore, for the first time, hypnotherapy is a procedure within the scope of practice of a psychologist.

However, section 8 of P.L.1966, c.282 (C.45:14B-8) exempts from the requirement of licensure by the board members of other professions who perform work of a psychological nature consistent with the accepted standards of their respective professions, so long as they do not hold themselves out to the public as psychologists or represent that they are licensed to practice psychology. Until now, hypnotherapists have been exempt from licensure by the board, but the new regulation specifically exempting members of certain professions from licensure by the board does not include an exemption for hypnotherapists.

Therefore, N.J.A.C.13:42-1.1(a)(3) (published at 25 N.J.R. 4937), which defines the scope of practice of psychology, and N.J.A.C.13:42-1.5 (published at 25 N.J.R. 4945), which exempts certain professions from licensure as psychologists, are not consistent with the legislative intent of the "Practicing Psychology Licensing Act," P.L.1966, c.282 (C.45:14B-1 et seq.) in that such professions are specifically exempt from licensure pursuant to section 8 of that act (C.45:14B-8).

# SENATE CONCURRENT RESOLUTION No. 62

## STATE OF NEW JERSEY

INTRODUCED MAY 12, 1994

By Senator SINAGRA

1 A CONCURRENT RESOLUTION concerning legislative review of  
2 proposed New Jersey Board of Nursing regulations pursuant to  
3 Article V, Section IV, paragraph 6 of the Constitution of the  
4 State of New Jersey.

5  
6 BE IT RESOLVED by the Senate of the State of New Jersey  
7 (the General Assembly concurring):

8 1. Pursuant to Article V, Section IV, paragraph 6 of the  
9 Constitution of the State of New Jersey, the Legislature may  
10 review any rule or regulation of an administrative agency to  
11 determine if the rule or regulation is consistent with the intent of  
12 the Legislature.

13 2. The Legislature enacted P.L.1989, c.98 to provide for the  
14 certification by the New Jersey Board of Nursing of  
15 homemaker-home health aides, and this act amended section 2 of  
16 P.L.1947, c.262 (C.45:11-24) to require the board to prescribe  
17 standards and requirements for a competency evaluation program  
18 resulting in the certification of homemaker-home health aides.  
19 The New Jersey Board of Nursing has proposed regulations to be  
20 codified in chapter 37 of Title 13 of the New Jersey  
21 Administrative Code, at N.J.A.C.13:37-14.10. As proposed, the  
22 regulations would require that an applicant for certification pass  
23 a written competency examination administered by the board or a  
24 board-approved testing service.

25 3. The Legislature finds that N.J.A.C.13:37-14.10, as  
26 proposed, is not consistent with the legislative intent because it  
27 requires that an applicant for certification pass a written  
28 competency examination administered by the board or a  
29 board-approved testing service, although no such requirement is  
30 stipulated in section 2 of P.L.1947, c.262 (C.45:11-24); and  
31 further because it exceeds the requirements of federal law, as  
32 provided in the "Omnibus Budget Reconciliation Act of 1987,"  
33 Pub.L.100-203, by requiring a written examination for  
34 certification in addition to the competency evaluation which  
35 homemaker-home health aide training programs must provide in  
36 order to comply with the requirements of Pub.L.100-203, whereas  
37 the legislative intent was to provide the same requirements as  
38 Pub.L.100-203.

39 4. The Secretary of the Senate and the Clerk of the General  
40 Assembly shall transmit a duly authenticated copy of this  
41 concurrent resolution to the Governor and the Director of the  
42 Division of Consumer Affairs of the Department of Law and  
43 Public Safety.

44 5. The New Jersey Board of Nursing shall, pursuant to Article  
45 V, Section IV, paragraph 6 of the Constitution of the State of

1 New Jersey, have 30 days following transmittal of this resolution  
2 to amend or withdraw the proposed regulations or the Legislature  
3 may, by passage of another concurrent resolution, exercise its  
4 authority under the Constitution to invalidate the regulations.

5 6. The New Jersey Board of Nursing is further urged to  
6 promulgate new regulations on a timely basis governing the  
7 competency evaluation of homemaker-home health aides in  
8 accordance with the requirements of federal law, and to  
9 specifically provide that upon successful completion of an  
10 approved homemaker-home health aide education and training  
11 program, an applicant for certification shall undergo a  
12 competency evaluation in patient care skills and basic knowledge,  
13 to be administered by the program provider and conducted by a  
14 registered professional nurse under the direction of the program  
15 instructor or coordinator.

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18 STATEMENT  
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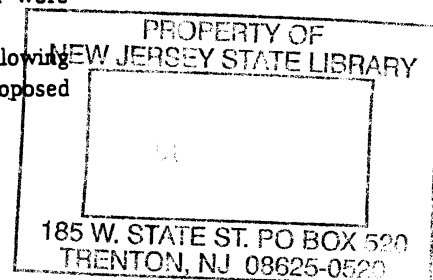
20 This concurrent resolution embodies the finding of the  
21 Legislature that the proposed amendments to  
22 N.J.A.C.13:37-14.10 by the New Jersey Board of Nursing are not  
23 consistent with legislative intent pursuant to Article V, Section  
24 IV, paragraph 6 of the State Constitution.

25 The proposed regulations concern the competency evaluation of  
26 homemaker-home health aides under section 2 of P.L.1947. c.262  
27 (C.45:11-24). That statute, as amended by P.L.1989. c.98,  
28 requires the board to prescribe standards and requirements for a  
29 competency evaluation program resulting in the certification of  
30 homemaker-home health aides.

31 The concurrent resolution finds that N.J.A.C.13:37-14.10, as  
32 proposed, is not consistent with legislative intent since these  
33 regulations would require that an applicant for certification as a  
34 homemaker-home health aide pass a written competency  
35 examination administered by the board or a board-approved  
36 testing service, although no such requirement is stipulated in  
37 section 2 of P.L.1947. c.262 (C.45:11-24). In addition, the  
38 proposed regulations exceed the requirements of federal law, as  
39 provided in the "Omnibus Budget Reconciliation Act of 1987,"  
40 Pub.L.100-203, by requiring a written examination for  
41 certification in addition to the competency evaluation which  
42 homemaker-home health aide training programs must provide in  
43 order to comply with the requirements of Pub.L.100-203, whereas  
44 the legislative intent was to provide the same requirements as  
45 Pub.L.100-203.

46 In addition, P.L.1990. c.125 (C.45:11-24.2) was enacted which  
47 required the Board of Nursing to provide that a person may  
48 satisfy the examination requirement for certification as a  
49 homemaker-home health aide by passing an oral competency  
50 evaluation in English or Spanish. References to written and oral  
51 examinations were deleted in the legislative process and were  
52 substituted by an oral competency evaluation.

53 The New Jersey Board of Nursing shall have 30 days following  
54 transmittal of this resolution to amend or withdraw the proposed





1 regulations or the Legislature may, by passage of another  
2 concurrent resolution, exercise its authority under the  
3 Constitution to invalidate the regulations.

4 The resolution further urges the New Jersey Board of Nursing  
5 to promulgate new regulations on a timely basis governing the  
6 competency evaluation of homemaker-home health aides in  
7 accordance with the requirements of federal law.

8  
9

10

11

12 Determines that proposed Board of Nursing regulations regarding  
13 the competency evaluation of homemaker-home health aides are  
14 not consistent with legislative intent.

SENATE LEGISLATIVE OVERSIGHT COMMITTEE

STATEMENT TO

SENATE CONCURRENT RESOLUTION, No. 62

STATE OF NEW JERSEY

DATED: June 2, 1994

This concurrent resolution embodies the finding of the Legislature that the proposed amendments to N.J.A.C.13:37-14.10 by the New Jersey Board of Nursing are not consistent with legislative intent pursuant to Article V, Section IV, paragraph 6 of the State Constitution.

The proposed regulations concern the competency evaluation of homemaker-home health aides under section 2 of P.L.1947, c.262 (C.45:11-24). That statute, as amended by P.L.1989, c.98, requires the board to prescribe standards and requirements for a competency evaluation program resulting in the certification of homemaker-home health aides.

The concurrent resolution finds that N.J.A.C.13:37-14.10, as proposed, is not consistent with legislative intent since these regulations would require that an applicant for certification as a homemaker-home health aide pass a written competency examination administered by the board or a board-approved testing service, although no such requirement is stipulated in section 2 of P.L.1947, c.262 (C.45:11-24). In addition, the proposed regulations exceed the requirements of federal law, as provided in the "Omnibus Budget Reconciliation Act of 1987," Pub.L.100-203, by requiring a written examination for certification in addition to the competency evaluation which homemaker-home health aide training programs must provide in order to comply with the requirements of Pub.L.100-203, whereas the legislative intent was to provide the same requirements as Pub.L.100-203.

In addition, P.L.1990, c.125 (C.45:11-24.2) was enacted which required the Board of Nursing to provide that a person may satisfy the examination requirement for certification as a homemaker-home health aide by passing an oral competency evaluation in English or Spanish. References to written and oral examinations were deleted in the legislative process and were substituted by an oral competency evaluation.

The New Jersey Board of Nursing shall have 30 days following transmittal of this resolution to amend or withdraw the proposed regulations or the Legislature may, by passage of another concurrent resolution, exercise its authority under the Constitution to invalidate the regulations.

The resolution further urges the New Jersey Board of Nursing to promulgate new regulations on a timely basis governing the competency evaluation of homemaker-home health aides in accordance with the requirements of federal law.

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Staff note - On May 6, 1994, the Board of Nursing voted to stay the implementation date of the proposed regulation for six months in order to resolve the details of how to administer the examination.

# ASSEMBLY CONCURRENT RESOLUTION No. 51

## STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Assemblyman HAYTAIAN

1 A CONCURRENT RESOLUTION concerning legislative review of  
2 proposed New Jersey Board of Nursing regulations pursuant to  
3 Article V, Section IV, paragraph 6 of the Constitution of the  
4 State of New Jersey.

5  
6 BE IT RESOLVED by the General Assembly of the State of  
7 New Jersey (the Senate concurring):

8 1. Pursuant to Article V, Section IV, paragraph 6 of the  
9 Constitution of the State of New Jersey, the Legislature may  
10 review any rule or regulation of an administrative agency to  
11 determine if the rule or regulation is consistent with the intent of  
12 the Legislature.

13 2. The Legislature enacted P.L.1989, c.98 to provide for the  
14 certification by the New Jersey Board of Nursing of  
15 homemaker-home health aides, and this act amended section 2 of  
16 P.L.1947, c.262 (C.45:11-24) to require the board to prescribe  
17 standards and requirements for a competency evaluation program  
18 resulting in the certification of homemaker-home health aides.  
19 The New Jersey Board of Nursing has proposed regulations to be  
20 codified in chapter 37 of Title 13 of the New Jersey  
21 Administrative Code, at N.J.A.C.13:37-14.10. As proposed, the  
22 regulations would require that an applicant for certification pass  
23 a written competency examination administered by the board or a  
24 board-approved testing service.

25 3. The Legislature finds that N.J.A.C.13:37-14.10. as  
26 proposed, is not consistent with the legislative intent because it  
27 requires that an applicant for certification pass a written  
28 competency examination administered by the board or a  
29 board-approved testing service, although no such requirement is  
30 stipulated in section 2 of P.L.1947, c.262 (C.45:11-24); and  
31 further because it exceeds the requirements of federal law, as  
32 provided in the "Omnibus Budget Reconciliation Act of 1987,"  
33 Pub.L.100-203, by requiring a written examination for  
34 certification in addition to the competency evaluation which  
35 homemaker-home health aide training programs must provide in  
36 order to comply with the requirements of Pub.L.100-203, whereas  
37 the legislative intent was to provide the same requirements as  
38 Pub.L.100-203.

39 4. The Secretary of the Senate and the Clerk of the General  
40 Assembly shall transmit a duly authenticated copy of this  
41 concurrent resolution to the Governor and the Director of the  
42 Division of Consumer Affairs of the Department of Law and  
43 Public Safety.

44 5. The New Jersey Board of Nursing shall, pursuant to Article  
45 V, Section IV, paragraph 6 of the Constitution of the State of

1 New Jersey, have 30 days following transmittal of this resolution  
2 to amend or withdraw the proposed regulations or the Legislature  
3 may, by passage of another concurrent resolution, exercise its  
4 authority under the Constitution to invalidate the regulations.

5 6. The New Jersey Board of Nursing is further urged to  
6 promulgate new regulations on a timely basis governing the  
7 competency evaluation of homemaker-home health aides in  
8 accordance with the requirements of federal law, and to  
9 specifically provide that upon successful completion of an  
10 approved homemaker-home health aide education and training  
11 program, an applicant for certification shall undergo a  
12 competency evaluation in patient care skills and basic knowledge,  
13 to be administered by the program provider and conducted by a  
14 registered professional nurse under the direction of the program  
15 instructor or coordinator.

16  
17  
18 STATEMENT  
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20 This concurrent resolution embodies the finding of the  
21 Legislature that the proposed amendments to  
22 N.J.A.C.13:37-14.10 by the New Jersey Board of Nursing are not  
23 consistent with legislative intent pursuant to Article V, Section  
24 IV, paragraph 6 of the State Constitution.

25 The proposed regulations concern the competency evaluation of  
26 homemaker-home health aides under section 2 of P.L.1947, c.262  
27 (C.45:11-24). That statute, as amended by P.L.1989, c.98,  
28 requires the board to prescribe standards and requirements for a  
29 competency evaluation program resulting in the certification of  
30 homemaker-home health aides.

31 The concurrent resolution finds that N.J.A.C.13:37-14.10, as  
32 proposed, is not consistent with legislative intent since these  
33 regulations would require that an applicant for certification as a  
34 homemaker-home health aide pass a written competency  
35 examination administered by the board or a board-approved  
36 testing service, although no such requirement is stipulated in  
37 section 2 of P.L.1947, c.262 (C.45:11-24). In addition, the  
38 proposed regulations exceed the requirements of federal law, as  
39 provided in the "Omnibus Budget Reconciliation Act of 1987,"  
40 Pub.L.100-203, by requiring a written examination for  
41 certification in addition to the competency evaluation which  
42 homemaker-home health aide training programs must provide in  
43 order to comply with the requirements of Pub.L.100-203, whereas  
44 the legislative intent was to provide the same requirements as  
45 Pub.L.100-203.

46 The New Jersey Board of Nursing shall have 30 days following  
47 transmittal of this resolution to amend or withdraw the proposed  
48 regulations or the Legislature may, by passage of another  
49 concurrent resolution, exercise its authority under the  
50 Constitution to invalidate the regulations.

51 The resolution further urges the New Jersey Board of Nursing  
52 to promulgate new regulations on a timely basis governing the  
53 competency evaluation of homemaker-home health aides in  
54 accordance with the requirements of federal law.

1

2

3 **Determines that proposed Board of Nursing regulations regarding**  
4 **the competency evaluation of homemaker-home health aides are**  
5 **not consistent with legislative intent.**

SENATE LEGISLATIVE OVERSIGHT COMMITTEE

STATEMENT TO

ASSEMBLY CONCURRENT RESOLUTION, No. 51

STATE OF NEW JERSEY

DATED: June 2, 1994

This concurrent resolution embodies the finding of the Legislature that the proposed amendments to N.J.A.C.13:37-14.10 by the New Jersey Board of Nursing are not consistent with legislative intent pursuant to Article V, Section IV, paragraph 6 of the State Constitution.

The proposed regulations concern the competency evaluation of homemaker-home health aides under section 2 of P.L.1947, c.262 (C.45:11-24). That statute, as amended by P.L.1989, c.98, requires the board to prescribe standards and requirements for a competency evaluation program resulting in the certification of homemaker-home health aides.

The concurrent resolution finds that N.J.A.C.13:37-14.10, as proposed, is not consistent with legislative intent since these regulations would require that an applicant for certification as a homemaker-home health aide pass a written competency examination administered by the board or a board-approved testing service, although no such requirement is stipulated in section 2 of P.L.1947, c.262 (C.45:11-24). In addition, the proposed regulations exceed the requirements of federal law, as provided in the "Omnibus Budget Reconciliation Act of 1987," Pub.L.100-203, by requiring a written examination for certification in addition to the competency evaluation which homemaker-home health aide training programs must provide in order to comply with the requirements of Pub.L.100-203, whereas the legislative intent was to provide the same requirements as Pub.L.100-203.

In addition, P.L.1990, c.125 (C.45:11-24.2) was enacted which required the Board of Nursing to provide that a person may satisfy the examination requirement for certification as a homemaker-home health aide by passing an oral competency evaluation in English or Spanish. References to written and oral examinations were deleted in the legislative process and were substituted by an oral competency evaluation.

The New Jersey Board of Nursing shall have 30 days following transmittal of this resolution to amend or withdraw the proposed regulations or the Legislature may, by passage of another concurrent resolution, exercise its authority under the Constitution to invalidate the regulations.

The resolution further urges the New Jersey Board of Nursing to promulgate new regulations on a timely basis governing the competency evaluation of homemaker-home health aides in accordance with the requirements of federal law.

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Staff note - On May 6, 1994, the Board of Nursing voted to stay the implementation date of the proposed regulation for six months in order to resolve the details of how to administer the examination.



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eem: 1-12

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**SENATOR ANDREW R. CIESLA (Vice-Chairman):** I'd like to open up this hearing with SCR-62. We intend on taking testimony while we're waiting for one of our additional members to arrive. Tom went to look for him. With that in mind, I'm going to dispense with taking an attendance vote until such time as we have a quorum, but I would like to ask the Committee Aide to read a statement regarding SCR No. 62.

**MR. CANTOR (Committee Aide):** This concurrent resolution embodies the finding of the Legislature that the proposed amendments to N.J.A.C. 13:37-14.10 by the New Jersey Board of Nursing are not consistent with legislative intent pursuant to Article V, Section IV, paragraph 6 of the State Constitution.

The proposed regulations concern a competency evaluation of homemaker-home health aides under the section 2, P.L.1947, Chapter 262. That statute requires the Board to prescribe standards and requirements for competency evaluation programs resulting in the certification of homemaker-home health aides.

**SENATOR CIESLA:** Thank you very much, Ray.

There are three people that have signed up to testify on this bill. It is my understanding that they want to come up and testify as a group. For record purposes they are Kenneth Dolan, from the Home Care Council of New Jersey; Jean Alan Bestafka, of the Home Health Services and Staffing Association; and Carol Kientz, of the Home Health Assembly of New Jersey.

Please come forward.

**C A R O L J. K I E N T Z:** I don't know if this is on? But I just don't know if they are recording it.

**SENATOR CIESLA:** Yes, we are.

There is a recording, and if you just pull the button on the black one forward, the people in the rear will be able to hear.

**MS. KIENTZ:** Fine. Thank you.

My name is Carol Kientz. I'm the Executive Director of the Home Health Assembly of New Jersey. Joining me are my colleagues who are executive directors from the two other home care associations in New Jersey. We're very grateful to this Committee for hearing this resolution today, as we are grateful to Senator Sinagra for recognizing the concern that we have with these regulations.

I would like to give you the essential problem that we see in terms of legislative intent relating it back to Assembly Speaker Chuck Haytaian's original legislation back in 1989. Then my colleagues have some background and other information to assist you, if you would like.

Essentially, the agencies and providers of home care in this State believe in appropriate cost-effective regulation of home care services. That is what adherence to the original legislation, which is A-4014 sponsored by Assembly Speaker Chuck Haytaian, would have produced for consumers, and that is why the legislation was strongly supported by all home care associations in New Jersey, as well as the State Nurses Association.

Unfortunately, the regulations proposed by the New Jersey Board of Nursing create costly and duplicative examination procedures administered by the Board of Nursing and never intended in the original legislation. The intent of the original legislation was to mirror Federal OBRA '87, which is the Omnibus Budget and Reconciliation Act of 1987, procedures which had been newly created at the time to regulate home health aide training and competency evaluation for home care providers and clients across the country. It seems sensible to thus utilize new Federal guidelines for New Jersey in order to assure continuity of the process and to avoid extra bureaucratic red tape and costs which always wind up being passed on to the consumer in one form or another.

Thus when A-4014 gave to the Board of Nursing -- again this is back in 1989 -- the authority to, and I quote from A-4014, "prescribe standards and requirements for a competency evaluation program resulting in certification of the homemaker-home health aide," that did not intend the administration of an examination or other test process by the Board of Nursing. Rather, the intent was, as I stated earlier, to be in line with the new Federal OBRA requirements. Those OBRA requirements included, and again I'm quoting:

"Home Health Agencies must provide a competency evaluation program and necessary preparation for home health aides employed," and that was as of July 1, 1989. Further, OBRA specified the Secretary, which was of HCFA, must establish minimum standards for training and competency evaluation programs by October 1, 1988.

Thus the language between A-4014 and OBRA '87 was very similar using the phrase competency evaluation and stipulating that a regulatory body must establish minimum standards for the training and evaluation, but not that that regulatory body would carry out the evaluation or any examination process. The Federal government gave that obligation and responsibility to the agencies doing the training, and we believed here in New Jersey that that was also an appropriate vehicle.

Thus the Speaker, in his testimony -- Speaker Haytaian in his testimony to the Board of Nursing back last fall on September 15 -- said, just as I have essentially said, "When I sponsored A-4014, my intent was very simple. I wanted to establish a State process for the certification of homemaker-home health aides that mirrored the process used by the Federal government. As long as a certification process existed that worked and ensured that only qualified individuals were certified as homemaker-home health aides, I saw no need to establish additional criteria above what was already regulated by Federal law."

Continuing the Speaker's quote, "Under Federal law, the competency evaluation for homemaker-home health aides does not include any written exam. Furthermore, my bill, A-4014, does not mention nor provide for, explicitly or implicitly, the requirement to establish any written exam at the State level for the certification of homemaker-home health aides."

I cannot say it any better than did the Speaker. The regulations proposed by the Board of Nursing go beyond the law's language and intent. The regulations create a State-administered examination, and whether that be written or oral, in English or the aide's language of origin, such a State administered examination goes beyond the Federal process and is not in keeping with the intent of A-4014.

Clearly, the intent can include oversight of the training program or the agency's process of doing a competency evaluation. In fact, oversight is the intent, and we welcome that oversight. But oversight is not the same as the State taking over the process itself, and that is what would occur with the regulations proposed by the Board of Nursing.

For that reason, we ask your support of SCR-62, so that we can return to the intent of the legislation. We can work with the Board of Nursing to develop an appropriate, professional oversight system without layering more cost and duplicative processes on top of the Federal system already in place and being followed by our home care agencies in this State.

Thank you.

SENATOR CIESLA: Thank you very much, Carol.

I appreciate the effort to go back and examine the legislative intent. That is the purpose of this Committee, and it helps us for you to do that particular research. The remarks are right on point.

Are there any members of the Committee that have any questions for Ms. Kientz? (no response)

MS. KIENZ: Or, if you're interested in any of the background-- We have been involved in this for five years, unfortunately, trying desperately to move it ahead. We're saddened that we've had to reach this point of asking for your assistance and the Speaker's assistance, but we see no other choice.

SENATOR CIESLA: Well, perhaps it will help in the redraft of the new regulations, since technically, these have expired of having run their one year period of time. But again, I reiterate, and for purposes of people that provide future testimony, it's very helpful for the Committee to focus on exactly what the intent of the legislation was in the minds of the sponsor and the Legislature at the time that it passed, and your remarks were more particularly useful.

K E N N E T H D O L A N: Senator, I was told-- I was informed by -- well, now she's resigned, but Emma Byrne -- that the regulations-- They met the time frame and they were published in the regulations, and they were going in the June "Register" -- State "Register." So that's what I was told just before her last day at work, that in fact -- that the Board voted -- the Board of Nursing did vote to publish the regulations, and in fact, did meet the time frame. So the regulations according to her -- now, I'm just letting you know what she said to me -- have not expired. She was able to get them in in a time frame.

SENATOR CIESLA: To the extent that they haven't -- then certainly this resolution -- I believe one has passed the Assembly, as well should prevail.

MR. DOLAN: Yes, sir.

We are concerned from the home care industry because we've been in this business -- among the three associations, our "A" member agencies have been in business for 25 years, 30 years. We've been training aides and I think doing an exemplary job of that training. We're in support of oversight,

as Carol mentioned to you. We're in support of working with the Board of Nursing. But the Board of Nursing has chosen, through the regulations, to go beyond what was intended and beyond what was ever needed to enforce that. So this is a concern of ours.

SENATOR CIESLA: Thank you very much.

Thank you.

Jean.

**J E A N   A L A N   B E S T A F K A:** I'm Jean Alan Bestafka. I'm the Exec of the Home Health Services Association. All of our testimony is similar, so I just really came to answer any questions you had about the process.

My concern is that all of the meetings that we've had in the past six years with the Board of Nursing have come to nothing. The fact that Assembly Speaker Haytaian had let the Board of Nursing know, originally, even before the public testimony, that the regulations that were proposed were against his legislative intent, and they didn't act on that, and then they didn't act on it again after the public hearing is why we feel we have to continue to move forward with this.

MR. DOLAN: This process -- just to pick up what Jean said -- the Speaker had notified in the letter to the Board, back in January of 1991, of his concern about it not meeting legislative intent, and the Board chose to totally ignore his concerns, even from that early date.

SENATOR CIESLA: While you're here, I just wanted to ask, is anyone from the administration here, or the AG's office, that might be able to give us indication as to whether or not the rules have been promulgated?

**R E N I   E R D O S** (Speaking from audience): I'm from the Division of Consumer Affairs. Well, the Commission had a letter -- it was faxed.

SENATOR CIESLA: Could you come forward, just for record purposes, and identify yourself so we know who you are.

MS. ERDOS: Yes. I don't have a copy of it with me, because I was just expecting someone from the AG's office to be here.

I'm Reni Erdos, from the Division. We faxed a letter that is signed by Jan Gavzy, the Deputy Director. That letter should say that the regulations are going to appear in the June 6 "Register" with that section that deals with the competency evaluation being stayed for six months.

SENATOR CIESLA: Okay, we do have a letter that I'd like to submit into the record, if that's possible..

MS. ERDOS: Great.

SENATOR CIESLA: It's dated June 1; it's directed to the Chairman, Mr. John Scott, and it is signed by Jan Gavzy. It does indicate that the regulations affecting certification, along with the notice of the stay of implementation of Section 14, will appear in the June 6, 1994 "Register." So I believe that the administration will have time then to be able to digest the essence of this particular resolution which I'm hopeful will pass the Committee today.

MS. BESTAFKA: Thank you.

SENATOR CIESLA: Thank you.

Are there any other individuals who wish to be heard on this matter? (no response)

Then, I guess as a point of procedural order, what we need to do is to take a roll call to open the meeting formally. Senator Zane had indicated his presence in here.

MR. CANTOR: Yes, Senator Scott?

SENATOR SCOTT: Yes.

MR. CANTOR: Senator Ciesla?

SENATOR CIESLA: Here.

MR. CANTOR: Senator Sacco?

SENATOR SACCO: Here.

MR. CANTOR: And, of course, Senator Zane, who's here, marked himself present. Yes.



SENATOR CIESLA: Now, I entertain a motion to approve this particular resolution.

MR. CANTOR: Okay, there are two resolutions SCR-62 and ACR-51, identical.

SENATOR CIESLA: Okay, so the actual motion will be made by Senator Scott, will be to approve, to move SCR-62 and ACR-51. A second?

SENATOR SACCO: I second.

SENATOR CIESLA: Seconded by Senator Sacco.

Roll call, please.

MR. CANTOR: On the motion to release Senate Concurrent Resolution No. 62 and Assembly Concurrent Resolution No. 51, which are identical.

Senator Zane has already indicated an affirmative vote.  
Senator Sacco?

SENATOR SACCO: Yes.

MR. CANTOR: Senator Ciesla?

SENATOR CIESLA: Yes.

MR. CANTOR: Senator Scott?

**SENATOR JOHN P. SCOTT (Chairman):** Yes.

SENATOR CIESLA: Senator Scott, I now turn the microphone over to you. If you don't mind, we'll stay in our same seats.

SENATOR SCOTT: Okay, thank you.

We'll now hear SCR-36. Do we have all the people?  
Okay.

It determines that the DLPS regulations including hypnotherapy within practice of psychology are inconsistent with legislative intent.

Does anyone else want to testify on it, for or against? We have Mr. Anthony DeMarco and that's it.

Okay, Mr. DeMarco?

A N T H O N Y   F .   D e M A R C O : Yes. Thank you, Honorable Senator Scott and the Senate Committee members. I am the Secretary of the National Association of Certified Hypnotherapists. With me and not speaking, though, are Dr. John Gatto, the President of the National Association of Certified Hypnotherapists, and also the President of the Academy of the Professional Hypnosis; Colonel Arthur Worrell, the President of the Association of Professional Hypnotherapists; and Dr. Patricia Trowbridge, the President of the Association of Professionals for Therapeutic Hypnosis. We thank you for this opportunity to address you.

SENATOR SCOTT: Mr. DeMarco, before you start, if I may?

MR. DeMARCO: Yes.

SENATOR SCOTT: You're the only one in your favor.

MR. DeMARCO: Yes, in favor.

SENATOR SCOTT: Just to let you know, the more you say, the more things happen. One never knows.

MR. DeMARCO: Yes, all right. I don't know whether that's an indication of whether I should be verbose or should limit it.

SENATOR SCOTT: Limit it.

MR. DeMARCO: All right, fine. Good, there's nothing like being direct, so I shall be direct. (laughter)

SENATOR CIESLA: Have a seat.

MR. DeMARCO: I'm the liaison for about 2000 people that practice hypnotherapy in the State of New Jersey. I understand that we are here today to address N.J.A.C. 13:42 of the Psychological Board in as far as it is entirely inconsistent with the legislative intent. I notice it is quite difficult to go back to 1966, when the Psychological Board was created. We don't have the pleasure of having persons here, probably, to introduce -- or that voted in favor of this regulation creating the Psychological Board.

However, we know from the historical notes on the statutes that all boards created in the State of New Jersey have limited powers. When they overstep those limitations, that's when problems arise.

We are not here today to denigrate the Psychological Board of Examiners (sic). We're here to bolster our cause. The Psychological Board of Examiners has usurped the field of hypnotherapy by including hypnotherapy in their scope of practice, exclusively, and by not adding in the exemptions -- hypnotherapists as being an exempt group that would be permitted to practice hypnotherapy, under the guise, and I say guise, that the practice of hypnotherapy is dependent upon psychological principles and procedures. We have been through this since October of 1993 and responding to the Psychological Board to no avail. I know I'm not here today to champion the cause of what's fair and not fair insofar as the Psychological Board of themselves.

However, everything in life, everything that we do, your listening to me, my addressing you, we use the mind, we use the psyche, and I know of nothing that we do in life that we don't use the mind. So they cannot include psychotherapy -- they cannot include hypnotherapy in their scope of practice, exclusively, and just take hypnotherapy away from the people who have created the field. We created the field. I reviewed, during 1993--

SENATOR SCOTT: Mr. DeMarco.

MR. DeMARCO: Yes.

SENATOR SCOTT: Let me help you out.

MR. DeMARCO: Yes.

SENATOR SCOTT: Right now, you know, when you sat down you were in good shape, okay.

MR. DeMARCO: Yes.

SENATOR SCOTT: I think, perhaps, it would be best-- The legislation you support, and we've all looked and-- Perhaps the best thing to do is to see if we have any questions.

MR. DeMARCO: All right. If I may--

SENATOR SCOTT: Because--

MR. DeMARCO: I will not go up to-- I am very passionate about this. We--

SENATOR SCOTT: Well, you may be, but you may find that we may suddenly develop questions that you hadn't anticipated.

MR. DeMARCO: All right. Fine.

Then I will continue with what I have prepared then.

It was not-- It was clearly expressed in Section VIII of the Statute that it was the intent of the Legislature to exempt other professional groups who may do work of a psychological nature connected with the accepted standards of their profession from regulation by the Psychological Board of Examiners. The language of the Legislature was didactic, unequivocal, and instructive to the Psychological Board. "Nothing in this Act shall be construed to prevent qualified members of other professional groups such as--"

It was not limiting. That was not limiting, that was giving examples by way of examples; who could be included in the exempt group. We feel it was the intent of the Legislature to permit other persons to use psychological principles in a very minor fashion, because if you extend it to hypnosis, if you extend it to hypnotherapy, sir, then they can extend it to dance therapy, aroma therapy, or acupuncture. They can take anything, and that's the gist of our argument. I do not think that the Legislature intended to create an octopus.

SENATOR SCOTT: Well, let me say this: This is what the legislation does; it agrees with you, okay. So would you allow me now to see if there are any questions.

MR. DeMARCO: Yes, surely.

SENATOR SCOTT: Then, if we have a question, that way you can get an answer.

MR. DeMARCO: Surely.

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SENATOR SCOTT: I think it's best served.

SENATOR CIESLA: I have none, Mr. Chairman.

SENATOR SCOTT: Senator Sacco, do you have any--

SENATOR SACCO: None whatsoever.

SENATOR CIESLA: I'm happy to move the bill for you, Mr. Chairman.

SENATOR SCOTT: The bill is moved. A second?

SENATOR SACCO: And I'll second the bill.

SENATOR SCOTT: The bill is moved and seconded, and we have a vote.

MR. CANTOR: On the motion to release Senate Concurrent Resolution No. 36.

Senator Zane has already indicated an affirmative vote.

Senator Sacco?

SENATOR SACCO: Yes.

MR. CANTOR: Senator Ciesla?

SENATOR CIESLA: Yes.

MR. CANTOR: Senator Scott?

SENATOR SCOTT: Yes.

That's it.

Thank you very much.

**(MEETING CONCLUDED)**

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## APPENDIX





TESTIMONY IN SUPPORT OF SCR-62  
REGARDING PROPOSED REGULATIONS FOR  
CERTIFICATION OF HOMEMAKER-HOME HEALTH AIDES  
BY THE BOARD OF NURSING



PRESENTED BY: Carol J. Kientz  
Executive Director  
The Home Health Assembly of N.J.

June 2, 1994

On behalf of the over 130 members of the Home Health Assembly of N.J., I am grateful to the Regulatory Oversight Committee, Chairman Scott, and to Senator Sinagra for recognizing and responding to our concern regarding the proposed regulations of the Board of Nursing regarding homemaker-home health aide certification.

Essentially, the agencies and providers of home care in this state believe in appropriate and cost-effective regulation of home care services. That is what adherence to the original legislation, A-4014, sponsored by Assembly Speaker "Chuck" Haytaian would have produced for consumers, and that is why the legislation was strongly supported by all home care associations in New Jersey as well as the N.J. State Nurses Association.

Unfortunately, the regulations proposed by the N.J. Board of Nursing create costly and duplicative examination procedures administered by the Board of Nursing, and never intended in the original legislation. The intent of the original legislation was to mirror Federal OBRA-87 (Omnibus Budget & Reconciliation Act of 1987) procedures which had been newly created at the time to regulate home health aide training and competency evaluation for home care providers and clients across the country. It seemed sensible to thus utilize those new Federal guidelines for New Jersey in order to assure continuity of the process and to avoid extra bureaucratic red tape and costs - which always wind up being passed on to the consumer in one form or another.

When A-4014 gave to the Board of Nursing the authority to "prescribe standards and requirements for a competency evaluation program resulting in certification of the homemaker-home health aide", that did not intend the administration of an examination or other test process BY the Board of Nursing. Rather, the intent was, as stated earlier to be in line with new Federal requirements. Those Federal requirements, as stated in OBRA-87 included:

- \*Home Health Agencies must provide a competency evaluation program and necessary preparation for home health aides employed as of July 1, 1989. (section 1891(a)(3)(i)).

1X

**\*The Secretary (HCFA) must establish minimum standards for training and competency evaluation programs by October 1, 1988...(sec.1991)(a)(3)(D)(iv).**

The use in A-4014 of much of that Federal OBRA-87 wording was deliberate, in order to assure a similar process here in New Jersey. That was reiterated by Speaker Haytaian in his testimony to the N.J. Board of Nursing on Sept. 15, 1993, when he said, "When I sponsored A-4014, my intent was very simple. I wanted to establish a state process for the certification of homemaker-home health aides that mirrored the process used by the Federal government. As long as a certification process existed that worked and ensured that only qualified individuals were certified as homemaker-home health aides, I saw no need to establish additional criteria above what was already required by Federal law.

"Under Federal law, the competency evaluation for homemaker-home health aides does not include any written exam. Furthermore, my bill A-4014, does not mention nor provide for, explicitly or implicitly, the requirement to establish any written exam at the state level for the certification of homemaker-home health aides."

I cannot say it any better than did the Speaker. The regulations proposed by the Board of Nursing go beyond the law's language and intent. The regulations create a state-administered examination, and whether written or oral, in English or the aide's language of origin, such a state-ADMINISTERED examination goes beyond the Federal process, and is not in keeping with the intent of A-4014.

Clearly, the intent can include oversight of the training program or agency's process of competency evaluation. In fact, OVERSIGHT IS the intent. But oversight is not the same as the state taking over the process itself...and that is what would occur with the regulations proposed by the Board of Nursing.

For that reason, we ask your support of SCR-62, so that we can return to the intent of the legislation...we can work with the Board of Nursing to develop an appropriate, professional oversight system without layering more cost and duplicative processes on top of the Federal system already in place and being followed by home care agencies in our state.

## BACKGROUND SUMMARY:

Home care, as a health care service in this state, has a long and distinguished history dating back over one hundred years. With the advent of Medicare in 1965 and the inclusion of coverage in that benefit for a broader variety of acute home care services than had previously been possible, the use of paraprofessional homemaker-home health aides was expanded to meet the public demand. The team approach of nurses, home health aides, and therapists in the home has significantly reduced hospital length of stay over the past 15 years, and the resultant cost-savings to the health care system is now recognized as one of the key elements in health care reform.

To assure quality as the utilization of home care expanded, the Federal government included within the Omnibus Budget Reconciliation Act of 1987 (OBRA-87), a section pertaining to homemaker-home health aides caring for Medicare and Medicaid clients. That section mandated training courses of at least 75 hours, including a minimum list of content areas; the minimum experience requirements for course instructors and coordinators; competency evaluation requirements for both "hands on" skills and knowledge following the training course; annual continuing education of at least 12 hours; and annual performance reviews. The Federal Health Care Financing Administration (HCFA), which developed the OBRA-87 regulations, rested the responsibility for carrying out these mandates with the home health agency itself, and annual oversight to assure compliance is handled by means of annual on-site surveys by HCFA's subcontracted agents. In New Jersey that agent is the State Department of Health, and those annual surveys generally last from 5 to 7 days at the agency and in patients' homes.

While not all home health aide services in New Jersey are funded by Medicare and Medicaid, thus technically exempting some from OBRA-87 oversight, the reality in our state actually pulls almost all providers into the purview of this regulation. In New Jersey, we have significant partnering between Medicare-certified agencies licensed by the State Health Department, and non-Medicare certified agencies licensed by the Division of Consumer Affairs. That contractor/sub-contractor relationship ultimately causes all parties to comply with OBRA-87 for maximum flexibility in assigning home health aides to any patient requiring care. In addition, non-certified agencies which meet state Medicaid accreditation standards can provide services to Medicaid Waiver program clients. Thus, since funding is from Medicaid, they must comply with OBRA-87 as well. As a result, OBRA-87 home health aide standards are closely adhered to by virtually all licensed home care agencies in this state.

Historically, New Jersey has also required certification of homemaker-home health aides long before OBRA-87. That certificate, previously issued by the State Health Department, was a concrete proof for employers and the public that the aide had successfully completed the necessary training course.

As review of the whole process took place during OBRA-87 development, the home care provider community together with the

State Nurses Association (NJSNA) determined that additional public protection was warranted to assure that home health aides would always be adequately supervised. Since the aide is a paraprofessional, public safety demands professional oversight, and we believe strongly in New Jersey that on-going supervision (including on-site supervision in the home) by a registered professional nurse is an absolute necessity. While it had been a generally accepted industry standard in our state, we feared that as home care expanded less quality-oriented providers might come along and deliver less than adequate oversight.

We place such high value on that nursing supervision that it seemed appropriate to seek legislation to mandate it, and at the same time to transfer the home health aide certification process to the agency responsible for nursing practice - namely, the New Jersey State Board of Nursing. We were fortunate to find in Assembly Speaker Haytaian a concerned advocate for this quality assurance, and thus a sponsor for the necessary legislation.

As soon as his bill A-4014 was enacted into law in 1989, the home care provider community began communication with the Board of Nursing, seeking a way to cooperatively create the best regulations to implement the legislation. After lengthy industry deliberations, we presented in person to the Board in 1990 a 12 page position paper which proposed, in detail, what we considered "best practice" for training, evaluation and certification of home health aides. In addition, the paper proposed a centralized, computerized registry of certified aides, as well as de-certified aides, at the Board of Nursing. We continue to urge this process so that home care agency employers and the public can readily ascertain whether an applicant has a problematic and unsafe past work history.

Unfortunately, we received no response to our proposals. Nevertheless, we continued to petition for industry inclusion in the process of regulation development. In 1991 the Board agreed to appoint a few home care representatives to an advisory panel of the Nurse Practice Committee. That panel met three times and for the most part was specifically precluded from discussions of the regulations. We were told they were being developed by the Board and would eventually be shared with the industry for comment.

When, in early 1992, a draft of the regulations was shared with home care providers, it contained some provisions so onerous, expensive and virtually impossible to implement that the provider community was shocked and responded accordingly. We immediately provided written responses to the draft and testified at a Board hearing. On the most calamitous issues, the Board heard our concerns and deleted or significantly altered those portions.

\*\*\*\*\*

When actual promulgation of the regulations occurred on 5/17/93, however, there remained one major obstacle - namely the creation and imposition of a Board of Nursing-administered examination for all home health aides. Such a state-administered process goes well beyond OBRA-87 regulations; further, it duplicates what the agencies must do to comply with OBRA-87. Thus it is costly and wasteful of payor dollars, is unnecessary, and

ultimately accomplishes nothing useful enough to justify the cost to the public. And there should be no mistake that ultimately consumers pay for any and all regulations, directly or via tax dollars, or both.

In response to the ensuing outcry, as well as communication from Speaker Haytaian, the Board held another hearing solely on the examination issue. In the Board's summary of that hearing, it was rightly noted that only 3 of the approx. 30 speakers found the Boards' regulations appropriate. However, the Board still concluded that the value of a Board-administered examination outweighed the negative statements. Nowhere did there seem to be recognition or understanding of the intent of Speaker Haytaian's legislative mandate to utilize the OBRA-87 process, nor awareness of the importance of conserving precious health care dollars.

Following that hearing, the executive directors of the three state home care associations (The Home Health Assembly of N.J., The Home Care Council of N.J. and The Home Health Services and Staffing Association) were invited by Consumer Affairs Director Emma Byrne and members of the Board of Nursing to meet and try to arrive at an agreeable competency evaluation methodology. Three times, between November 1993 and January 1994, we sat together to discuss alternatives. The industry proposed, and was willing to accept, Board review and approval of the competency evaluation tools to be used by agencies. Board creation of tools was acceptable if industry expert representatives were part of the creation process. This still would follow essentially along OBRA-87 lines, since the training program sponsor or agency would still administer and be responsible for the aide's competency evaluation.

Other compromises urged by the home care provider community included monitoring of training courses in progress by Board of Nursing staff, and monitoring of the competency evaluation process conducted by agencies and course sponsors.

The industry suggested that either or both types of monitoring be unannounced and on a random or selected sample basis each year. This would provided good quality oversight at far less cost than direct Board administration of all competency evaluations on as many as 8,000 or more aide trainees annually.

From these proposals, the Board's final conclusion, reached on February 17, 1994, is still one which insists upon the Board, in the form of "administrators", conducting the examinations rather than the OBRA-87 model of competency evaluations by agencies and training program sponsors.

Throughout these five years since 1989 the industry has constantly and persistently acted in good faith to cooperate and communicate with the Board. We believe our compromise proposals have ben reasonable, fiscally-sound, and protective of our patients' safety and need for expanded home care services. And we believe our proposals maintain the integrity of the original legislation with respect to OBRA-87 guidelines.

**Home Care Council Of New Jersey**  
The State Association of Homemaker-Home Health Aide Agencies

Testimony presented to Senate Regulatory Oversight Committee

June 2, 1994

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS KENNETH DOLAN. I AM EXECUTIVE DIRECTOR OF THE HOME CARE COUNCIL OF NEW JERSEY. MY TESTIMONY REPRESENTS THE UNITED POSITION OF THE STATE NETWORK OF 24 NON-PROFIT HOME CARE AGENCIES.

THESE AGENCIES COLLECTIVELY EMPLOY MORE THAN 5,000 CERTIFIED HOMEMAKER-HOME HEALTH AIDES, NURSES AND SOCIAL WORKERS, AND ANNUALLY PROVIDE MORE THAN FIVE MILLION HOURS OF SERVICE TO SOME 30,000 FRAIL ELDERLY AND DISABLED NEW JERSEY RESIDENTS. THE STATE NETWORK OF NON-PROFIT HOME CARE AGENCIES HAS BEEN CONDUCTING STATE APPROVED TRAINING PROGRAMS FOR HOMEMAKER-HOME HEALTH AIDES FOR MORE THAN 25 YEARS. TO DATE, OUR MEMBER AGENCIES HAVE TRAINED MORE THAN 50,000 HOMEMAKER-HOME HEALTH AIDES.

IT IS BECAUSE OUR AGENCIES HAVE SUCH EXTENSIVE EXPERIENCE IN TRAINING HOMEMAKER-HOME HEALTH AIDES THAT THEY HAVE AN EXCELLENT UNDERSTANDING ABOUT WHAT WORKS AND WHAT DOESN'T WORK WHEN TRAINING & EVALUATING AIDES. IT IS ALSO BECAUSE OF THIS EXTENSIVE TRAINING EXPERIENCE THAT THE COUNCIL MEMBER AGENCIES ARE UNITED IN THEIR OPPOSITION TO THE BOARD OF NURSING'S PROPOSAL FOR A BOARD ADMINISTERED WRITTEN EXAM & COMPETENCY EVALUATION. THE MAJOR POINTS IN THE COUNCIL'S OPPOSITION TO THE BOARD'S PROPOSAL ARE AS FOLLOWS:

**- A BOARD OF NURSING ADMINISTERED COMPETENCY EXAM DOES NOT COMPLY WITH THE LEGISLATIVE INTENT OF STATE LAW.**

A-4014 P.L. 1989 CHAPTER 98 MANDATES SPECIFIC RESPONSIBILITIES FOR THE BOARD OF NURSING RELATED TO THE HOMEMAKER-HOME HEALTH AIDE CERTIFICATION PROGRAM. HOWEVER, THERE IS NO REFERENCE IN THE STATUTORY LANGUAGE SPECIFICALLY DESIGNATING THAT THE BOARD OF NURSING WILL BE THE AGENT WHICH DIRECTLY CONDUCTS HOMEMAKER-HOME

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HEALTH AIDE TRAINING PROGRAMS OR COMPETENCY EXAMINATIONS. RATHER, IT IS THE AGENCY THAT IS TO PRESCRIBE STANDARDS, CURRICULA AND REQUIREMENTS FOR TRAINING PROGRAMS AND COMPETENCY EXAMINATIONS.

IN A LETTER TO THE BOARD, DATED JANUARY 3, 1991, ASSEMBLY SPEAKER CHUCK HAYTAIAN, THE SPONSOR OF THE LAW, SPECIFIED THAT IT WAS HIS LEGISLATIVE INTENT THAT THE BOARD OF NURSING'S RESPONSIBILITIES REGARDING TRAINING AND COMPETENCY EXAMINATIONS WERE LIMITED TO SETTING STANDARDS AND REQUIREMENTS AND TO PROVIDE OVERSIGHT TO INSURE COMPLIANCE. ACCORDING TO SPEAKER HAYTAIAN, HE SPECIFIED IN THE LEGISLATION THAT A COMPETENCY EXAMINATION SHOULD BE PART OF THE TRAINING PROCESS SO THAT NEW JERSEY'S PROGRAM WOULD COMPLY WITH FEDERAL OBRA 87 REQUIREMENTS. HE NEVER INTENDED FOR THE BOARD TO CERTIFY HOME HEALTH AIDES THROUGH A BOARD ADMINISTERED COMPETENCY EXAMINATION.

THE ONLY POSSIBLE REASON THE BOARD COULD HAVE TO IGNORE SUCH A CLEAR LEGISLATIVE INTENT WOULD BE IF THERE

WAS AN IMMINENT THREAT TO PUBLIC SAFETY. THIS BRINGS ME TO THE NEXT REASON FOR THE COUNCIL'S OPPOSITION TO THE PROPOSED BOARD ADMINISTERED WRITTEN EXAM AND COMPETENCY EVALUATION PROCESS.

**- THE PROPOSED EXAM & COMPETENCY EVALUATION REQUIREMENT REPRESENTS A SOLUTION TO A PROBLEM WHICH DOES NOT EXIST.**

AS I MENTIONED IN MY INTRODUCTORY REMARKS, THE COUNCIL'S MEMBER AGENCIES HAVE TRAINED MORE THAN 50,000 HOMEMAKER-HOME HEALTH AIDES OVER THE PAST 25 YEARS. DURING THIS PERIOD, THE AIDES' CLINICAL COMPETENCIES HAVE SELDOM BEEN THE SUBJECT OF CONSUMER COMPLAINTS. THE COUNCIL AGENCIES ARE PROUD OF THE FACT THAT OVER THE PAST 25 YEARS THEY HAVE PROVIDED MORE THAN 50 MILLION HOURS OF SERVICE TO SOME 500,000 FRAIL ELDERLY AND DISABLED RESIDENTS AND NEVER HAVE BEEN PARTIES TO LAW SUITS BY CONSUMERS.

THERE IS CLEARLY OVERWHELMING EVIDENCE THAT THE SYSTEM IN PLACE TODAY TO TEST & EVALUATE HOMEMAKER-HOME

HEALTH AIDE COMPETENCY IS WORKING! OVER THE PAST THREE YEARS, IN ALL OUR DISCUSSIONS WITH THE BOARD REGARDING COMPETENCY EVALUATIONS, THE BOARD HAS NEVER PRODUCED ANY EVIDENCE OR FACTS TO INDICATE OTHERWISE. THE "DON'T FIX WHAT ISN'T BROKEN" CONCEPT CERTAINLY APPLIES HERE.

FOR THE BOARD TO INVEST SCARCE STAFF & FINANCIAL RESOURCES TO DEVELOP AND IMPLEMENT A SOLUTION FOR A NONEXISTENT PROBLEM IS TOTALLY UNREASONABLE. SINCE TAKING OVER THE RESPONSIBILITY FOR THE CERTIFICATION PROGRAM IN 1990, STAFFING SHORTAGES AND STATE HIRING FREEZES HAVE STYMIED THE BOARD'S EFFORTS TO EFFECTIVELY IMPLEMENT THE PROGRAM. STAFFING LIMITATIONS HAVE PRODUCED NUMEROUS BUREAUCRATIC SNAFUS INCLUDING: THE RETURN OF 20,000+ UNDELIVERABLE CERTIFICATION APPLICATIONS, LOSING HUNDREDS OF COMPLETED APPLICATIONS, AND MISTAKENLY ISSUING LICENSES TO HOME HEALTH AIDES. STAFFING LIMITATIONS HAVE ALSO SERIOUSLY HINDERED THE BOARD'S ABILITY TO MONITOR TRAINING COURSES, TO IMPLEMENT AND MAINTAIN AN EFFECTIVE REGISTRY AND TO EFFECTIVELY

SANCTION CERTIFIED AIDES WHO DO NOT WORK UNDER THE DIRECT SUPERVISION OF REGISTERED PROFESSIONAL NURSES.

WITH THE CERTAINTY OF AN AUSTERITY STATE BUDGET FOR FY 95, THERE ARE NO INDICATIONS THAT THE BOARD'S STAFFING PROBLEMS WILL BE SOLVED ANYTIME IN THE FORESEEABLE FUTURE. IT IS THEREFORE IMPORTANT THAT THE BOARD GET THE BIGGEST BANG FOR EVERY CONSUMER PROTECTION DOLLAR SPENT. WE HAVE REPEATEDLY RECOMMENDED THAT THE BOARD PLACE PRIORITIES ON CONSUMER PROTECTION ACTIVITIES WHICH WILL BE MOST EFFECTIVE IN PROTECTING CONSUMERS. THESE INCLUDE:

- INCREASE MONITORING OF TRAINING PROGRAMS  
AND COMPETENCY EVALUATION ACTIVITIES,
- INCORPORATE INDUSTRY RECOMMENDED DATA  
REQUIREMENTS IN HOMEMAKER-HOME HEALTH  
AIDE REGISTRY
- ENFORCE REQUIREMENT THAT ALL CERTIFIED AIDES WORK  
UNDER SUPERVISION OF A REGISTERED PROFESSIONAL  
NURSE

**- A BOARD OF NURSING ADMINISTERED COMPETENCY EXAM  
CONFLICTS WITH FEDERAL MEDICARE LAW AND REGULATIONS.**

THE FEDERAL OMNIBUS RECONCILIATION ACT OF 1987 (OBRA 87) ESTABLISHED NATIONAL STANDARDS AND REQUIREMENTS FOR THE TRAINING AND COMPETENCY EVALUATION OF HOME HEALTH AIDES. IN THE CONGRESSIONAL REPORT OF THE COMMITTEE ON THE BUDGET OF THE HOUSE OF REPRESENTATIVES, CONGRESS STATED, *"HOME HEALTH AGENCIES THEMSELVES ARE RESPONSIBLE FOR ENSURING THAT THEIR AIDES ARE, IN FACT, TRAINED AND COMPETENT."* THE FEDERAL HEALTH CARE FINANCING ADMINISTRATION (HCFA) HAS DECLARED THAT IN ACCORDANCE WITH OBRA 87, HOME HEALTH AGENCIES *"MUST PROVIDE A COMPETENCY EVALUATION PROGRAM AND NECESSARY PREPARATION FOR HOME HEALTH AIDES."* HCFA FURTHER REQUIRES THAT *"HOME HEALTH AGENCIES MUST PROVIDE REGULAR PERFORMANCE REVIEWS AND INSERVICE EDUCATION TO ENSURE THE COMPETENCY OF HOME HEALTH AIDES."*

THE PROCEDURE USED IN THE COMPETENCY EXAMINATION IS SPELLED OUT IN THE FEDERAL REGULATIONS. THE REGULATIONS

SPECIFICALLY REQUIRE THAT THE AIDE'S SKILLS IN FOUR AREAS BE EVALUATED BY A REGISTERED PROFESSIONAL NURSE WHO DIRECTLY OBSERVES THE AIDE'S PERFORMANCE WITH A PATIENT OR A PSEUDO-PATIENT IN A LABORATORY SETTING. THE FOUR SKILL AREAS TO BE DIRECTLY OBSERVED INCLUDE: 1) READING AND RECORDING VITAL SIGNS; 2) TECHNIQUES OF PERSONAL HYGIENE AND GROOMING; 3) SAFE TRANSFER TECHNIQUES AND AMBULATION; AND 4) NORMAL RANGE OF MOTION AND POSITIONING. 42 C.F.R. 484.36(b)(3)(iii). ALL OTHER SKILL AREAS SET FORTH IN THE REGULATIONS CAN BE EVALUATED *"THROUGH WRITTEN EXAMINATION, ORAL EXAMINATION, OR AFTER OBSERVATION OF A HOME HEALTH AIDE WITH A PATIENT."*

IT IS CLEAR THAT THE BOARD OF NURSING'S PROPOSAL FOR FORMAL COMPETENCY EXAMINATIONS DOES NOT MEET THE OBRA 87 REQUIREMENTS. THE CREATION OF A TWO-TIERED SYSTEM, WHEREBY HOME HEALTH AIDES WOULD BE REQUIRED TO COMPLETE A FEDERALLY MANDATED COMPETENCY EXAMINATION, FOLLOWED BY A BOARD OF NURSING COMPETENCY EXAM WOULD BE EXTREMELY COSTLY. THE BOARD'S PROPOSAL WOULD IMPOSE A

SIGNIFICANT COST BURDEN ON NJ TAX PAYERS AND HOME CARE CONSUMERS. WE HAVE ESTIMATED THE ANNUAL COST TO BE IN EXCESS OF \$425,000 OR \$53.00 PER NEWLY TRAINED AIDE. IN THE END, A TWO-TIERED SYSTEM WILL SIGNIFICANTLY INCREASE THE COST OF SERVICES FOR ALL CONSUMERS WHILE IN NO WAY ENSURING ANY ADDITIONAL CONSUMER PROTECTION.

**- ALLOWING AIDES TO WORK PRIOR TO SUCCESSFULLY PASSING THE COMPETENCY EXAMINATION VIOLATES STATE REGULATIONS AND UNDERMINES INDUSTRY SPONSORED QUALITY ASSURANCE EFFORTS.**

CURRENTLY, THE STATE MEDICAID PROGRAM REQUIRES HOME CARE AGENCIES TO USE ONLY STATE CERTIFIED HOMEMAKER-HOME HEALTH AIDES ON MEDICAID CASES. ADDITIONALLY, STATE DEPARTMENT OF HEALTH LICENSURE REGULATIONS REQUIRE MEDICARE CERTIFIED HOME HEALTH AGENCIES TO EMPLOY ONLY STATE CERTIFIED AIDES. THIS REQUIREMENT ALSO EXTENDS TO SUBCONTRACT AGENCIES WHO PROVIDE AIDES TO DOH LICENSED AGENCIES. MEDICAID AND DOH OFFICIALS HAVE GIVEN NO INDICATION THAT THEY WILL CHANGE THEIR CERTIFIED AIDE

REQUIREMENTS TO ACCOMMODATE THE COMPETENCY EXAMINATION CHANGE PROPOSED IN THE REGULATIONS. IN FACT, IT IS MY UNDERSTANDING THAT SAUL KILSTEIN, MEDICAID DIRECTOR, WROTE THE BOARD A LETTER IN JUNE 1993, RAISING SERIOUS CONCERNS REGARDING THE COMPETENCY EVALUATION PROPOSAL.

THE MANDATED USE OF CERTIFIED AIDES IS ALSO AN INTEGRAL COMPONENT OF THE QUALITY ASSURANCE STANDARDS OF THE THREE STATE APPROVED HOME CARE ACCREDITATION PROGRAMS - NJ COMMISSION ON ACCREDITATION FOR HOME CARE, THE NATIONAL FOUNDATION FOR HOSPICE AND HOME CARE'S ACCREDITATION PROGRAM, AND THE NLN'S COMMUNITY HEALTH ACCREDITATION PROGRAM. CURRENTLY, IN NEW JERSEY, MORE THAN 55 HOME CARE AGENCIES ARE ACCREDITED BY ONE OF THE ABOVE MENTIONED ORGANIZATIONS. BETWEEN STATE LICENSURE REQUIREMENTS, MEDICAID REGULATIONS AND ACCREDITATION STANDARDS, FULLY 80 PERCENT OF THE HOME CARE AGENCIES IN NEW JERSEY ARE PROHIBITED FROM EMPLOYING UNCERTIFIED HOMEMAKER-HOME HEALTH AIDES. THEREFORE, IT IS VITAL THAT



COMPETENCY EXAMINATIONS CONTINUE TO BE CONDUCTED BY TRAINING AGENCIES AS AN INTEGRAL COMPONENT OF THE CERTIFICATION TRAINING PROGRAM. IF AGENCIES ARE UNABLE TO PUT AIDES TO WORK IMMEDIATELY FOLLOWING THE TRAINING PROGRAM, THE AIDES WILL LEAVE FOR OTHER WORK. THE RESULT WILL BE MAJOR MANPOWER SHORTAGES THROUGHOUT THE STATE!

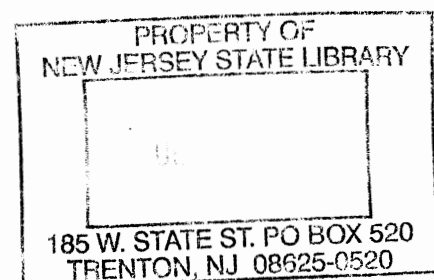
CONCLUSION:

IN CONCLUSION I WOULD LIKE TO EXPRESS OUR ASSOCIATION'S STRONG SUPPORT FOR SENATOR SINAGRA'S RESOLUTION SCR.62. ARTICLE V. SECTION IV, PARAGRAPH 6 OF THE CONSTITUTION OF THE STATE OF NEW JERSEY WAS PROPOSED BY THE NJ LEGISLATURE AND ENDORSED BY THE CITIZENS OF NEW JERSEY FOR A VERY COMPELLING REASON. FACED WITH INCREASINGLY FREQUENT SITUATIONS WHERE A STATE DEPARTMENT, DIVISION, BOARD OR BUREAU IS NOT ACCOUNTABLE OR RESPONSIVE TO THE CITIZENS OF NEW JERSEY, THIS REGULATORY OVERSIGHT MECHANISM IS NEEDED TO ENFORCE ACCOUNTABLY & RESPONSIBILITY IN STATE GOVERNMENT.

OVER THE PAST FIVE YEARS, THE BOARD OF NURSING'S DISREGARD FOR THE CONCERNS OF SPEAKER HAYTAIAN AND THE HOME CARE INDUSTRY DEMONSTRATES HOW IMPORTANT THIS REGULATORY OVERSIGHT MECHANISM IS. THE BOARD HAS REPEATEDLY DEFENDED THEIR ACTIONS BY STATING THAT THEIR PRIMARY MANDATE IS TO PROTECT CONSUMERS. CERTAINLY NO ONE CAN ARGUE WITH THAT MANDATE. HOWEVER I DO NOT RECALL ATTENDING ANY MEETING OF THE BOARD OF NURSING OR ANY PUBLIC HEARINGS WHERE NJ CITIZENS WERE COMING FORWARD TO RAISE CONCERNS REGARDING THE CLINICAL COMPETENCY OR KNOWLEDGE OF HOME HEALTH AIDES. THE BOARD HAS DECIDED UNILATERALLY THAT THEY KNOW WHAT IS BEST FOR THE HOME HEALTH CARE CONSUMER, WITHOUT ANY SERIOUS EFFORTS TO SOLICIT INPUT FROM CONSUMERS, LEGISLATORS, OR THE HOME CARE INDUSTRY.

WE ARE HERE TODAY TO SHOW OUR STRONG SUPPORT FOR SCR.62. THE IMPLEMENTATION OF THIS IMPORTANT REGULATORY OVERSIGHT MECHANISM IS EXTREMELY IMPORTANT TO ASSURING

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THE ACCOUNTABLY AND RESPONSIVENESS OF STATE GOVERNMENT  
TO THE CITIZENS OF NEW JERSEY.



**HOME HEALTH SERVICES and STAFFING ASSOCIATION of NEW JERSEY**

**132 Lancaster Road • Freehold, NJ 07728**

**Jean Alan Bestafka**  
**Executive Director**  
**Fax (908) 431-3948**  
**(908) 303-8599**

June 2, 1994

**TESTIMONY**  
**SENATE LEGISLATIVE OVERSITE COMMITTEE**

**Senator John Scott, Chairman**  
**Senator Andrew R. Ciesla, V Chair.**  
**Senator John Bennett**  
**Senator Henry McNamara**  
**Senator Raymond Zane**

**Senator Ronald Rice**  
**Senator Nicholas Sacco**

Re: SCR-62

Thank you. SCR-62 determines that the proposed board of Nursing regulations regarding the competency evaluation of home health aides are not consistent with legislative intent. On September 13, 1993 Assembly Speaker asked Jeff Warsh to testify at a public hearing and publicly notify the Board that their proposed regulations were contrary to legislative intent. It should be noted that Assembly Speaker Haytaian had previously notified the board in writing and had received no response.

The Home Health Services and Staffing Association of NJ has supported Speaker Haytaian's position that the board should monitor training programs used to certify home health aides that mirrored the Federal process, not exceed it. The Federal guidelines require that a licensed Registered Nurse certify the competence of the aide by observing her competence in 13 specific areas, and re certify her competence on an annual basis. There is no need to reinvent the wheel and create another level of bureaucratic oversight when the federal regulations are very clear, used nationally and are very stringent.

To add the high cost, a minimum of \$50 per student, to the already excessive fees that the board has imposed on aides, would not provide any greater level of safety, and would discourage other competent and caring people from becoming home health aides.

I can speak in detail about the very strict and detailed educational and evaluative process that the aides are currently required to complete, if you wish, but it is clear that the Board of Nursing has ignored the legislative intent of Assembly Speaker Haytaian's legislation.



## State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
OFFICE OF THE DIRECTOR

JAMES P. MULVIHILL  
ASSISTANT ATTORNEY GENERAL  
IN CHARGE

DEBORAH T. PORITZ  
ATTORNEY GENERAL

LOCATION:

124 HALSEY STREET, 7TH FLOOR  
NEWARK, NJ 07102  
(201) 504-6534

MAILING ADDRESS:

P. O. BOX 45077  
NEWARK, NJ 07101

June 1, 1994

Hon. John P. Scott, Chairman  
Senate Legislative Oversight Committee  
304 Ridge Road  
Lyndhurst, NJ 07071

Re: SCR-62/ACR-51

Dear Senator Scott:

This letter is to advise you of the status of the proposed regulations of the Board of Nursing regarding the certification of homemaker-health aides and the Board's recent actions pursuant to ACR-51/SCR-62, which are on the June 2, 1994 Senate Legislative Oversight Committee Agenda.

At its public meeting of May 6, 1994, the Board of Nursing voted to stay the implementation date of Section 14 of the new regulations affecting certification of homemaker-home health aides for six months until December 6, 1994, for the express purpose of resolving the details of how to administer the examination requirement. The following is a brief chronology of the competency evaluation issue which led up to the introduction of ACR-51 and its Senate companion, SCR-62, and the hearings before the respective legislative oversight committees.

Notice of proposal of the homemaker-home health certification regulations - N.J.A.C. 13:39-14 - appeared in the New Jersey Register on May 17, 1993 at 25 N.J.R. 1950(a), and copies of the published proposal were forwarded to the Star Ledger, the Trenton Times and other interested parties.

Because the Board worked closely with a Home-Health Advisory Committee comprised of members of the home-health industry and representatives of the major industry organizations to draft the regulations, and, for the most part, incorporated the advice and recommendations of the committee into the final draft of the regulations, correspondence received during the comment period was primarily limited to the single issue of the competency examination.

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ACR-51/SCR-62 - Senator John P. Scott - Page 2

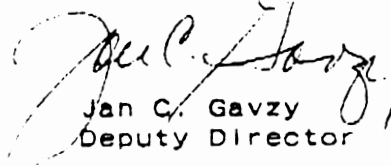
In response to a request from Assembly Speaker Garabed "Chuck" Haytaian, the Board held a public hearing on the competency examination issue on September 15, 1993. On February 15, 1994, upon consideration of the public comment received and the recommendations contained in the hearing officer's report, the Board voted to adopt the proposed new regulations.

ACR-51, which determines that proposed Board regulations regarding the competency evaluation of homemaker-home health aides are not consistent with legislative intent, was introduced by Assembly Speaker Garabed "Chuck" Haytaian in early 1994, heard by the Assembly Regulatory Oversight Committee on March 7, 1994, and passed in the Assembly on March 28, 1994.

The Board of Nursing regulations affecting certification of homemaker-home health aides, along with notice of the stay of implementation of Section 14, will appear in the June 6, 1994 New Jersey Register.

If you have any questions, or need any additional information regarding this matter, please do not hesitate to contact me. I can be reached at (201) 504-6319.

Sincerely,

  
Jan C. Gavzy  
Deputy Director

c: Speaker Garabed "Chuck" Haytaian  
Senator Jack Sinagra  
James F. Mulvihill, Assistant Attorney General in Charge

