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House Health & Human Services
Chairwoman Landwehr and Committee Members
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HB2784 – Opponent

Good Afternoon, Madam Chair and Committee Members. I am Linda MowBray, President/CEO of the Kansas Health Care Association and Kansas Center for Assisted Living. We are a trade Association representing for-profit and not-for-profit nursing home, assisted living, residential health care, home plus, and nursing facilities for mental health communities across the state. We are the oldest nursing home trade association in Kansas and have over 265 member communities. Our members care for nearly 20,000 elders across the state 24 hours a day with an employee team of over 20,000 workers.

We appreciate the opportunities to present testimony in opposition of HB2784 An act concerning adult care homes; relating to continuing care retirement communities (CCRCs); transferring authority for certification of such facilities from the Kansas insurance department to the Kansas department for aging and disability services (KDADS); lowering the nursing facility provider assessment for such facilities.

We have no objection to moving the authority over CCRCs to KDADS. The only concern is that of bandwidth. Does KDADS have the capacity, personnel, and expertise to manage this program? Which part of the agency will this authority be housed? These questions can all be answered rather easily so again, moving the authority to KDADS is not an issue for us.

What we do have issue with is the change in definition of a CCRC which is on page 3 new section 9. First, adding independent to the definition and then referencing to page 1 section 1.

(1) *"Adult care home" means any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential healthcare facility, home plus, boarding care home, continuing care retirement community and adult day care facility;, all of which are classifications of adult care homes and are required to be licensed by the secretary for aging and disability services.*

This language includes CCRC and its independent living component implies that independent living is licensed or should be licensed by KDADS. This will create a new category of licensure as well as fees, surveys and an increased need for personnel at KDADS. What is the fiscal note and where will these new surveyors come from?

The second issue is the need for clarification in the definition of CCRCs is “are levels of care required to maintain CCRC status?” If so, well established CCRCs such as Aldersgate Village in Topeka who no longer carry a license to provide skilled care, would be disqualified from CCRC status.

Third, many well established CCRCs have a campus setting with separate buildings for different levels of care. When a resident requires more care, they move from building to building to settings that better meet their health care needs. Page 3 section 9 states

(9) "Continuing care retirement community" means any place or facility that combines a range of housing and services to encompass the continuum of aging care needs provided at an independent living facility, an assisted living facility, a residential healthcare facility and a skilled nursing care facility within a single place or facility to avoid the need for residents to relocate to a separate place or facility. The provision of community care includes the multiple levels of care provided within a continuing care retirement community.”

Does this not disqualify CCRCs that utilize a campus setting? Does this mean all levels of care must be provided in a single building to avoid the need for residents to relocate to a separate place or building?

The Centers for Medicaid and Medicare (CMS), authorize a state’s provider assessment. We believe that there are issues within this bill that will not be approved by CMS. First, our current provider assessment meets CMS standards which call for a broad-based tax; and if different rates are used, the lower rate will be 1/6 of the higher rate. Currently, the rate is $818 for the lower and $4908 for the higher. There are four buckets that providers fall into which determines their rate:

1. Small skilled nursing care facility
2. High Medicaid volume skilled nursing facilities
3. Continuing care retirement communities
4. All other skilled nursing homes

The first 3 buckets pay the lower rate and the last pays the higher rate. CMS performs a statistical analysis that affirms our provider assessment is balanced.
On page 14 line 19, this bill changes the rate formula to $2000 for the first 3 buckets and $4000 for the rest. We do not believe that is in line with CMS requirements.

Also, by narrowing the definition of “small skilled nursing care facility” on page 14 section 9 from less than 46 beds to “*at least 40 but fewer than 46 licensed nursing facility beds”*, any nursing home with less than 40 beds would be forced into the higher tax level while creating a fifth bucket of tax rates. How many homes will be affected? Can such a small home survive that type of tax increase? We do not believe that CMS will approve a high tax rate for such small facilities.

For these reasons, KHCA stands in opposition to HB2784. Thank you for this opportunity to provide testimony and I’ll stand for questions at the appropriate time.

Linda MowBray
President/CEO
KHCA/KCAL