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Shawn Sullivan, Secretary

Sam Brownback, Governor

February 9, 2012

Aging and Long-Term Care Committee
Re: HB 2619
Joe Ewert, Commissioner
Kansas Department on Aging

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Mr. Chairman and Members of the Committee:

My name is Joe Ewert and I am Commissioner of Survey and Certification for the Kansas Department on Aging ("KDOA"). I appreciate the opportunity to discuss HB 2619. This bill addresses four issues:

1. There are approximately ten, small Intermediate Care Facilities for the Mentally Retarded (ICF/MR) currently licensed or certified in Kansas which have less than six beds. These facilities were originally licensed as adult care homes many years ago even though KSA 39-923(a)(4) does not require a license for ICF/MRs with less than six beds. By amending the licensing statute, KDOA's authority to continue licensing these facilities will be clear. It is important to note that KDOA will not license any new ICF/MRs under six beds with this amendment. Only the currently licensed or certified facilities will be affected by this bill.
2. This bill would also require owners of facilities whose licenses have been denied, suspended, or revoked in Kansas to wait at least two years before applying for another license. Similarly, owners of facilities whose licenses have been denied, suspended, or revoked in other states would be required to wait at least two years before applying for a license in Kansas.
3. HB 2619 also clarifies that KDOA may enter into a settlement agreement after an intent to revoke has been filed if the Secretary determines that a plan of correction would resolve the issues. Such plans could include a change in management, ownership, or other alternatives that would remove the offending parties without requiring the upheaval that comes with transferring residents from one home to another.
4. Finally, owners whose certified facilities have failed to comply with federal Medicaid or Medicare regulations would be subject to denial, suspension, or revocation under state law.

Currently, KSA 39-928 requires KDOA to issue a license if the candidate is "fit and qualified," the application has been submitted correctly, and if the physical campus meets KDOA regulatory requirements. HB 2619 clarifies situations in which an applicant would not be viewed as being "fit and qualified" based on performance experience in Kansas or other states.

During the past year, KDOA filed an emergency order revoking an adult care home license due to chronic violations of state laws and regulations. To protect residents, the agency also filed a petition for receivership in a state district court.

The Secretary believes that revoking or suspending a license for cause should require the owner to refrain from operating a new facility for at least two years. The same rule would apply to the owner or operator of an adult care home whose license has been revoked in other states. Such an owner would also need to wait two years before operating a facility in Kansas.

We believe the language above will give clarity to the agency and providers with respect to state licensing activities of adult care homes. We ask that you pass this bill favorably out of committee.

With me this morning is Bill Rein, KDOA's Chief Counsel. Mr. Rein and I will stand for questions. Thank you, Mr. Chairman.