



To: Chairwoman Concannon, and Members, House Children and Seniors Committee

From: Rachel Monger, Vice President of Government Affairs

Date: February 21, 2019

### **Testimony in Opposition to House Bill 2343**

Thank you, Chairwoman Concannon, and Members of the Committee. I am Rachel Monger, Vice President of Government Affairs for LeadingAge Kansas, the state association for not-for-profit and faith-based aging services. We have 160 member organizations across Kansas, which include not-for-profit nursing homes, retirement communities, hospital long-term care units, assisted living, homes plus, senior housing, low-income housing, home health agencies, home and community based service programs, PACE and Meals on Wheels. Our members serve more than 25,000 older Kansans each day, and employ more than 20,000 people across the state.

Our providers share similar concerns with consumer advocates on the issue of provisional hiring. However, we do not support the elimination of provisional hiring in adult care homes, because it is the only emergency backstop available when our state background check programs inevitably fail or slow down. We experience periodic slow-downs in background check processing by the State, including last year. And as a human operated system, it will continue to happen in the future. Due to our severe workforce struggles in long term care, delays in background checks quickly go from headache to crisis. Turnover rates in senior care are astronomical, with some sectors in our field topping 100%. With the constant churning of nursing and nurse aide positions, the inability to backfill positions for weeks or months poses a serious risk to the people we serve.

According to KDADS, last year they completed 69,222 background checks for adult care homes, home health agencies and HCBS providers. A total of 319 prohibitions based on criminal convictions were issued. Of these 0.4% of applicants, an even smaller percentage would ever enter our workforce as a provisional hire. In an ideal world, we would have zero employees entering our buildings without a completed background check. But as with so many things in this world, ideals have to make room for reality. When it comes to these background checks, adult care homes and their residents in need of care are completely at the mercy of the Kansas Department for Aging and Disability Services and the Kansas Bureau of Investigation.

### **Upcoming Switch to Fingerprint-Based Background Checks**

We are seriously concerned about the upcoming switchover of our state-based background checks into a national background check program with fingerprinting, and a new web-based software to operate the new system. With thousands of providers, and 70,000 prospective employees having to make such a

massive shift, there will be widespread confusion and hiccups. A slow down on submissions and processing will happen. The best we can hope for is to limit the delays as much as we can. It will be difficult enough to make this switch with provisional hiring as a safety net. If we eliminate provisional hiring on the cusp of such a huge change in our background check system, we are setting ourselves up for a very dangerous staffing disaster.

### **Tightening of Provisional Hiring Requirements**

Prior to July 1, 2018, provisional hiring by adult care homes was allowed without any limits or rules. Last year the legislature approved changes to our background check statute to allow, among other things, the agency to transition us to fingerprint-based checks and new requirements for provisional hires. As of July 1, 2018, provisional hiring is now limited to a one-time period of sixty days, and all provisional hires must be supervised by an employee that has completed all training required by federal and state regulations.

For years, KDADS held stakeholder meetings with provider and consumer groups about the best way to make the transition to national background checks, and the ways our statute needed to be updated. Over those years, consumer groups brought up their concerns over provisional hiring. They are valid and understandable concerns, as are the concerns of removing a critical staffing safety net for the inevitable delays from our state agencies. It was our understanding that the new requirements around provisional hiring that were passed into law last year were the result of a compromise between those two concerns.

We thank the committee for their time and attention to this issue. For the reasons outlined above, we ask that the committee not move forward on House Bill 2343.