

February 20, 2013

The Honorable Connie O'Brien, Chairperson
House Committee on Children and Seniors
Statehouse, Room 187-N
Topeka, Kansas 66612

Dear Representative O'Brien:

SUBJECT: Fiscal Note for HB 2348 by House Committee on Children

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2348 is respectfully submitted to your committee.

HB 2348 would require an adult care home to conspicuously post for each wing and shift the current number of licensed and unlicensed nursing personnel directly responsible for resident care and the current ratios of residents to licensed and unlicensed nursing personnel. This information would have to be displayed on a form approved by the Secretary for Aging and Disability Services. HB 2348 would define "licensed nursing personnel" as registered professional nurses and licensed practical nurses. The bill would define "unlicensed nursing personnel" as nurse aides, nurse aide trainees, medication aides, and paid nutrition assistants.

HB 2348 would require that beginning January 1, 2014, unlicensed employees who provide direct, individual care to residents and who do not administer medications to residents, must complete 90 hours of education and training in basic resident care and treatment approved by the Secretary of Health and Environment within 60 days of employment. Current law requires 40 hours of training in basic resident care skills within 90 days of employment for unlicensed employees. In addition, paid nutrition assistants would be required to engage in a minimum of 12 hours of instruction. Current law requires eight hours of instruction for nutrition assistants.

HB 2348 would require an unlicensed employee of an adult care home who provides direct, individual care to residents and who, since successfully completing the required education and training, has had a continuous period of 18 consecutive months during which the employee did not provide direct resident care to complete an approved refresher course in basic resident care and treatment.

The bill would require beginning July 1, 2013, that hours of qualified nursing personnel per resident day in nursing facilities must be at least two hours and 50 minutes, of which at least 40 minutes must be allocated to registered professional nurse time, at least 27 minutes allocated

to licensed practical nurse time, and at least one hour and 43 minutes must be allocated to nurse aide personnel time. On and after July 1, 2014, the required hours of qualified nursing personnel per resident day in nursing facilities would increase to at least three hours and 39 minutes, of which at least 51 minutes must be allocated to registered professional nurse time, at least 35 minutes allocated to licensed practical nurse time, and at least two hours and 13 minutes must be allocated to nurse aide personnel time. On and after July 1, 2015, the required hours of qualified nursing personnel per resident day in nursing facilities would increase to at least four hours and 26 minutes, of which at least 62 minutes must be allocated to registered professional nurse time, at least 42 minutes must be allocated to licensed practical nurse time and at least two hours and 42 minutes must be allocated to nurse aid personnel time.

HB 2348 would also increase the maximum assessments for deficiencies cited in correction orders. The bill would require the Secretary of Aging and Disability Services to report annually to the Committee on Children and Seniors, the Social Services Budget Committee, the Public Health and Welfare Committee, and the Committee on Ways and Means an assessment of whether the minimum nursing care hours established by this bill are sufficient to meet residents' needs. If the Secretary finds that the minimum nursing care hours are insufficient to meet the needs of residents, the Secretary would be required to include recommendations to adjust the minimum nursing care hours in the annual report.

Estimated State Fiscal Effect				
	FY 2013 SGF	FY 2013 All Funds	FY 2014 SGF	FY 2014 All Funds
Revenue	--	--	\$12,875,620	\$29,805,000
Expenditure	--	--	--	\$1,000
FTE Pos.	--	--	--	--

Passage of HB 2348 would increase costs for the Kansas Department for Aging and Disability Services (KDADS). Edits to software used by adult care home surveyors would be necessary to accommodate the requirements of this bill. It is estimated that it would cost \$5,000 for the software vendor to complete the updates. In addition, KDADS notes that during FY 2012, there was one Civil Monetary Penalty imposed under the existing statute which was reduced because the total fine was over the statutory limit. It is estimated that implementation of HB 2348 would have allowed KDADS to collect additional Civil Monetary Penalties totaling \$1,000.

Passage of HB 2348 would also have a sizable fiscal effect on nursing facilities and Medicaid nursing facility reimbursements. According to an LPA audit dated April 2012, it could cost nursing facilities approximately \$245.0 million to implement the final requirements of this bill. Approximately 40.0 percent of Kansas nursing facility residents are Medicaid eligible. Therefore, Medicaid would reimburse about \$98.0 million of the \$245.0 million. The remainder likely would be paid by the nursing facility, Medicare, or private-pay residents. HB 2348 would phase-in the increased care requirements over the three year period, with a 30.0 percent increase

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for FY 2014, another 30.0 percent increase for FY 2015 and the final 40.0 percent increase for FY 2016. For FY 2014 the increase in Medicaid nursing facility reimbursements would be \$29.8 million. For FY 2015, payments would increase by \$58.1 million over the current year, and for FY 2016, payments would increase by \$98.0 million over the current year. The State General Fund portion of these increases would be \$12.9 million in FY 2014, \$25.1 million in FY 2015 and \$42.3 million in FY 2016. Any fiscal effect associated with HB 2348 is not reflected in *The FY 2014 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", with a long horizontal flourish extending to the right.

Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Aaron Dunkel, KDHE
Dave Halferty, KDADS