



Kari M. Bruffett, Secretary

Sam Brownback, Governor

To: Committee on Health and Human Services
From: Lea Taylor, Assistant Secretary
Date: February 19, 2015
Subject: HB 2315, providing for the licensure of certain facilities and standards for treatment of certain individuals

Chairman Hawkins and members of the Committee:

I appreciate the opportunity to present testimony regarding HB 2315, to provide updated and clear authority for the licensure of certain entities by the Secretary of the Kansas Department for Aging and Disability Services (KDADS). A key responsibility of KDADS is to ensure the safety of our most vulnerable Kansans through the programs that we license. Individuals must be able to trust that the entity from which they receive services and/or care have high standards that are both fairly and uniformly enforced. This legislation continues our effort to clean up the statutes transferred to KDADS under the 2012 Executive Reorganization Order. It will provide well-defined authority for the standards required of the licensed providers and entities who deliver care and services to Kansans.

Currently, KDADS licenses and regulates multiple facilities, hospitals, centers, and other service providers under authority provided primarily under a single statute: K.S.A. 75-3307b. This statute provides vague guidance for a wide variety of facility types including: Community Mental Health Centers, Community Service Providers, Private Psychiatric Hospitals, Psychiatric Residential Treatment Facilities, and Residential Care Facilities. Due to the statute's current ambiguity, KDADS has instead relied upon regulations for appropriate enforcement and standards of adherence for these specific entities. The purpose of this legislation is to specifically outline *in statute* the licensure and enforcement process in a consistent, uniform, and efficient manner.

The changes proposed in HB 2315 will: (1) consolidate the licensure process; (2) increase protection to the individuals receiving the care/services provided by the licensees; and (3) engage providers through an enforcement process that provides for intermediate corrective action steps as an alternative to immediate licensure revocation. It is important to note that the legislation will have no impact on entities not currently covered by K.S.A. 75-3307b, such as the Substance Use Disorder program(s).

(1) Consolidated and more uniform licensure process

The licensure process detailed in the legislation clearly outlines the procedure that each licensee can expect and is designed to apply to multiple types of licensees. The updated statutes will alleviate the need to search across multiple statutes to determine the appropriate inspection and investigation process. This will provide clarity for each licensee regarding the responsibilities and standards to which KDADS expects them to adhere. Consumers will have peace of mind in knowing that the entity providing their care has gone through a more robust, thorough licensure process than has occurred previously due to the lack of clearly-defined Agency authority.

(2) Increased protection to the individuals through background checks for service providers

KDADS strives to ensure that those utilizing services or receiving care from one of the facilities, hospitals, centers, or other service providers we license are receiving care and/or services from people who have passed a robust background check. During the drafting process, KDADS consulted with the Kansas Bureau of Investigation to make certain that the proposed KDADS background check process is comprehensive. Currently, background checks are not completed in a

consistent manner across all licensees. This legislation will increase the uniformity and consistency of background checks to ensure Kansas consumers the same level of protection regardless of where they are receiving service or care.

Furthermore, KDADS understands that each licensee seeks to employ the most appropriate staff for the consumers they serve. One change we would request for the legislation is found on page 8, line 22. We suggest replacing the word “shall” with “may”. This would allow KDADS to achieve the goal of requiring background checks for the licensee and workers, as applicable, while not burdening each licensee with a new process if they are already conducting a thorough background check. The “may” provides the licensee the option to utilize the KDADS background check process out of convenience so that they do not have to develop their own if they have concerns that their background check is not as thorough.

(3) Engage providers through an enforcement process that allows for intermediate steps as an alternative to licensure revocation while providing protection for individuals served

This legislation will afford licensees the added assurance that, should an issue arise where corrective action is required, the licensees’ will have a defined opportunity to resolve those issues rather than face immediate closure. Currently, KDADS only options include a plan of correction, mediation, or revocation of their license. The problem with those corrective options is that the action may be either “too quick” and entities are shut down, or the entities may begin an endless cycle of corrective actions which are never satisfactorily resolved. This new legislation will allow KDADS the intermediate step of such as fines or a temporary suspension. The hope is that these intermediate options will decrease the need for emergency licensure revocations and the ensuing chaos that is created for consumers who have to find a new placement or provider.

This clean-up legislation will help KDADS maintain a better working relationship with the provider community and the entities we license, and ensure the safety and quality of care for the Kansans we serve. We appreciate the Committee considering our perspective and our suggested changes. At this time, I will stand for questions.