

# Making Elder Care Better Since 1975

Kansas Advocates  
for  
Better Care



January 24, 2012

Chairman Bob Bethell, Vice Chairman Ron Worley and Members of the Committee

Thank you for the opportunity to testify in opposition to House Bill 2471. Because administrators have a direct impact on elders care, Kansas Advocates for Better Care played a key role in the creation of the Board of Adult Care Home Administrators (BACHA). BACHA's work is critical in the oversight of nursing facility administrators and in protecting vulnerable adults who live in nursing facilities.

## Background

The BACHA Board's stated objective is to **protect the public** through the regulation of Adult Care Home Administrators. Through its program the BACHA Board:

- 1) Examines persons seeking to be licensed as Adult Care Home Administrators;
- 2) Establishes standards for the practice of adult care home administration; and
- 3) Requires adherence to those standards.

Thus, its activities consist of Regulation, Examination, and Administration.

### BACHA Duties and Responsibilities

- Developing, imposing and enforcing standards for adult care home administrators.
- Developing examinations to determine whether an individual meets such standards.
- Ensuring Adult Care Home Administrators meet all standards before licensing .
- Approving continuing education programs and monitoring continuing education requirements.
- Receiving complaints, investigating disciplinary matters, and taking appropriate disciplinary action.

The current make-up of the Board is:

- Two representatives of professions and institutions who care for and treat chronically ill or infirm elderly patients
- Two consumer representatives with no financial ties to or participation as a governing board member for a nursing facility or nursing facility association.
- Three adult care home administrators with current licenses

Kansas Advocates for Better Care would ask the Committee to amend the bill in the following manner:

- 1) **Increase Consumer Representation** to match Administrator representation; from 2 to 3.
- 2) **Increase Professional representation** to match Administrator representation; from 2 to 3.
- 3) Require that any **administrator** who is considered for appointment to the BACHA Board have a record free of:
  - a. **Disciplinary action** in Kansas or any other state
  - b. **Inspection survey** results that contain citations for Abuse, Neglect or Exploitation of a resident, and/or Immediate Jeopardy, and/or Actual Harm for a period of two years preceding their appointment, in Kansas or any other state.

KABC believes these changes are needed because:

1) **Increasing Consumer representation** to create parity with administrator representation gives consumers an equal voice in the oversight of nursing home leadership. Elder consumers are the ones sacrificed when administrators perform their duties poorly, such as being scalded when hot water heaters are not set correctly or operating properly, repeatedly.

There is a natural inclination for administrators to “make allowances” for one of their own, since to hold the standards high, means it will be applied to them as well. I have repeatedly listened at meetings of the BACHA Board Complaint Committee, in surprise and dismay at what is “allowed for” on an administrator’s watch at the expense of a vulnerable adult.

2) **Increasing the professional representation** to match administrator representation brings additional expertise to the deliberations of the BACHA Complaint Committee from a healthcare provider and fellow professional who is accustomed to the application of high standards of conduct. Adding an additional professional representative also rounds out the Committee at nine, the odd number needed for tie-breaking votes.

3) **Set a specific standard for administrators** nominated to the BACHA Board. Poor performing administrators frequently move from facility to facility, taking their poor performance with them to the next nursing facility. Setting a specific standard that meaningfully defines “persons of recognized ability and qualification” will allow the BACHA Board to provide the intended oversight to vulnerable elders for which it was created.

There are 342 nursing facilities in Kansas. Each of those facilities has a licensed nursing home administrator.

173 nursing facilities (51%) were cited with deficiencies that have negative impact on vulnerable elders - Actual Harm, Immediate Jeopardy or Abuse, Neglect, or Exploitation.

- 173 facilities were cited in one of the three categories
- 121 were cited with Actual Harm or Immediate Jeopardy (35%)
- 98 cited for Actual Harm (range 1-6 citations)
- 23 cited for Immediate Jeopardy (range 1-2 citations)
- 134 cited for Abuse, Neglect or Exploitation (range 1-5)
- 14 cited for Actual Harm and Immediate Jeopardy
- 12 cited for Actual Harm, Immediate Jeopardy and Abuse/Neglect/Exploitation

There is no safety net. The three associations, LeadingAge, KHCA and KACE, by their own statement, do not have a standard of performance as criteria for membership either by facility or administrator. An administrator can perform exceptionally well or exceptionally poorly and belong to any or all of these Associations. With all due respect, codifying in statute that BACHA Board nominations/members come from each of the listed organizations will not assure that “persons of recognized ability and qualification” are appointed to the BACHA Board.

All Kansans, most especially older Kansans living in nursing facilities, rely on the Legislature to act in assuring health and safety for consumers. Adopting the suggested amendments, the bill will achieve this.

On behalf of KABC members and volunteers,  
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