



To: Chairman Suellentrop, and Members, Public Health and Welfare Committee
From: Rachel Monger, Vice President of Government Affairs
Date: March 20, 2019

Neutral Testimony on SB 232

We have been extremely concerned about the rash of KDADS adult care home receiverships in the last two years. We support the efforts by the agency to amend adult care home statutes to update the receivership statutes, and improve the adult care home licensing statutes to better safeguard the public.

We are providing neutral testimony today because we have a serious concern about the new definition of "insolvency" contained in the bill. The definition being proposed by the agency is far too broad, and ignores the unique financial situations of adult care home providers. We informed the agency of our concerns around this issue before they drafted the bill.

The definition of insolvency, on page 4, Lines 39-43, states:

(30) "Insolvent" means that the adult care home, or any individual or entity that operates an adult care home or appears on the adult care home license, has liabilities that exceed the value of the adult care home's, individual's or entity's assets, has stopped paying debts in the ordinary course of business or is unable to pay debts as they come due.

Over the years, we have had many members who were unable to pay their bills when due, and were dangerously close to defaulting on their payroll. This was a direct result of the state and its contractors failing to pay nursing homes for the care they were providing to residents. Senior care providers are heavily dependent on Medicaid funding, and often lack control over their financial health and cash flow at any given time. Including the words "unable to pay debts as they come due" in the definition of insolvency ignores the financial realities of nursing homes, as well as the role our state government and their Medicaid contractors play in that financial reality.

We also object to the generic definition of insolvency for an adult care home that states "has liabilities that exceed the value of the adult care home's, individual's or entity's assets". It is far too broad, and negatively affects continuing care retirement communities in Kansas. Due to the actuarial nature of their financial model (they also fall under the jurisdiction of the Commissioner of Insurance), the balance sheet of a CCRC would fall under KDADS' generic definition of insolvency.

While the status of insolvency does qualify a home for receivership, the term "insolvent" was never previously defined in the adult care home statute. We believe that was purposeful, because a generic definition of insolvency does not work in the adult care home context, and opens the door to extreme government overreach. We have not heard reports from KDADS that the absence of an insolvency

definition in K.S.A. 39-923 has ever prevented the agency from moving forward with an adult care home receivership.

The definition of "insolvent" is not only inappropriate, it is unnecessary. We ask that the committee remove the definition of insolvent from SB 232.

Thank you very much. We are always happy to answer questions.