

SESSION OF 2022

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2477

As Amended by Senate Committee of the Whole

Brief*

HB 2477, as amended, would create and amend law to temporarily adjust requirements related to adult care homes and health care professionals in response to the COVID-19 pandemic. The bill would be in effect upon publication in the *Kansas Register*, and all provisions of the bill would expire on January 20, 2023.

Adult Care Homes

The bill would create law requiring the Kansas Department for Aging and Disability Services (KDADS) to extend through the expiration of the bill's provisions any renewal deadline for any occupational or professional license, certificate, or registration issued by KDADS.

KDADS would be allowed to issue a temporary license, certification, or registration to any person who was previously licensed, certified, or registered by KDADS if the person was in good standing prior to the lapse of the license, certification, or registration, subject to conditions specified by the bill, and the license, certification, or registration was issued on or after January 6, 2017. KDADS would be required to waive any late fee associated with any license, certificate, or registration extended or issued under the above provisions.

KDADS would be required to extend through the expiration of the bill's provisions any deadline for continuing education requirements.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

KDADS would be allowed to issue a temporary aide authorization for any person who receives minimum training (as specified by the bill and KDADS) within a nursing facility.

KDADS would be allowed to issue a temporary authorization for a person not previously licensed, certified, or registered by the state or any other state, and such persons could serve only individuals requiring minimal supervision or assistance with daily living activities. Nursing facilities would be required to ensure that any person with a temporary authorization is competent to perform and execute certain duties specified by the bill.

The bill would allow the Secretary for Aging and Disability Services to issue a provisional license to an adult care home that submits a checklist and a detailed plan for isolation and cohorting of residents in response to the COVID-19 pandemic. In approving such checklist and plan, the Secretary would be allowed to temporarily suspend standards, requirements, and rules and regulations related to the physical environment, a change in bed capacity, or a change in bed classification for such adult care home. The provisional license could be issued without approval by the State Fire Marshal and would remain valid through the expiration of the bill's provisions. Such provisional licenses would remain subject to all requirements applicable to provisional licenses other than for reasons related to the isolation and cohorting of residents in response to the COVID-19 pandemic.

The bill would define "adult care home" and "Kansas Department for Aging and Disability Services" for purposes of the new section.

Health Care Professionals

The bill would renew a statute in the Kansas Intrastate Emergency Mutual Aid Act that allows physician assistants, advanced practice registered nurses, licensed practical

nurses, nurse anesthetists, registered professional nurses, and licensed pharmacists to provide certain additional services in response to the COVID-19 pandemic; allows a registered professional nurse or licensed professional nurse whose license is exempt or inactive or has lapsed within the past five years to provide health care services; permits designated health care facilities to allow certain students, military members, and other personnel to volunteer or work within the facility in appropriate roles; allows an out-of-state health care professional to practice in Kansas without licensure in Kansas; and adjusts certain conditions of licensure, certification, or registration for health care professionals.

[*Note:* The provisions of this section were originally enacted in 2020 Special Session HB 2016 and were extended until March 31, 2021, by 2021 SB 14, at which point they expired.]

The bill would amend the renewed statute to remove a provision exempting health care professionals from payment of a licensing, certification, or registration fee under certain circumstances.

Additionally, the bill would amend the subsection allowing out-of state health care professionals to practice in Kansas to:

- Clarify that the subsection does not authorize a health care professional to practice a profession that is not authorized by Kansas law;
- Specify that such practice must be for the purposes of preparing for, responding to, or mitigating any effect of COVID-19;
- Require health care professionals practicing under the subsection to notify the appropriate Kansas regulatory body of such practice, within seven calendar days of initiating practice in Kansas, on a

form and in a manner prescribed by the regulatory body; and

- State that such health care professionals shall be subject to all rules and regulations applicable to the practice of the licensed profession in Kansas and considered a licensee for the purposes of the applicable practice act administered by the regulatory body.

The bill also would amend a section allowing the State Board of Healing Arts to grant temporary emergency licenses for the purpose of responding to COVID-19 to specify that no such license to practice a profession may be issued to unless the profession is required by law to be licensed, certified, or registered in Kansas.

Background

On January 6, 2022, the Governor proclaimed a statewide state of disaster emergency due to an increased need for patient care in light of increased COVID-19 infections and hospitalizations. The same day, the Governor issued Executive Orders (EO) 22-01 and 22-02.

EO 22-01 provided temporary relief from certain restrictions and requirements governing the provision of medical services and health care providers, and EO 22-02 addressed the licensure, certification, and registration for adult care home staff and licensure of adult care homes.

On January 7, 2022, the Legislative Coordinating Council met and reviewed the EOs, as required by KSA 48-925. Under KSA 48-924 and KSA 48-925, the provisions of the EOs will expire with the expiration of the state of disaster emergency, which is 15 days after its declaration, on January 21, 2022, unless the provisions are enacted into law or the state of disaster emergency is extended.

The bill was introduced by the House Committee on Judiciary at the request of Representative Patton.

House Committee on Judiciary

In the House Committee hearing on January 13, 2022, representatives of the Kansas Hospital Association and LeadingAge Kansas and a representative of the Kansas Center for Assisted Living and Kansas Health Care Association testified as **proponents** of the bill, stating the bill would extend the provisions of the January 6, 2022, EOs and provide flexibilities to meet staffing needs during the current increase in COVID-19 cases. Representatives of Kansas Adult Care Executives and Midwest Health, Inc., provided written-only proponent testimony.

A representative of the State Board of Healing Arts testified as a neutral conferee, requesting amendments regarding out-of-state providers and license fees. No **opponent** testimony was provided.

House Committee of the Whole

On January 18, 2022, the House Committee of the Whole amended the bill to update phrasing to reflect the expiration of a previous state of disaster emergency proclamation.

Senate Committee on Judiciary

In the Senate Committee hearing on January 19, 2022, the same **proponent** and neutral conferees testified as before the House Committee. No **opponent** testimony was provided.

The Senate Committee amended the bill to:

- Adjust the out-of-state provider and license fee provisions, based on the request of the State Board of Healing Arts;
- Add language regarding temporary emergency licensure; and
- Change the expiration date of the bill's provisions from May 15, 2022, to January 20, 2023.

Senate Committee of the Whole

On January 20, 2022, the Senate Committee of the Whole amended the bill to align all expiration dates in the bill with the expiration date amendment made by the Senate Committee.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, KDADS estimates enactment of the bill would cost the agency \$4,000 from the State General Fund to update licensing software and instructions for electronic submission of forms. KDADS cannot estimate the fiscal effect on short-term providers. The Office of Judicial Administration indicates enactment of the bill would have no fiscal effect on the Judicial Branch. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2023 Governor's Budget Report*.

COVID-19; health care; expanded practice; adult care homes; licensure