

Making Elder Care Better Since 1975

Kansas Advocates
for
Better Care



March 13, 2012

Chairwoman Schmidt, Vice Chair Brundgardt and Members of the Committee,

Thank you for hearing our testimony today. My name is Mitzi McFatrach and I am here today on behalf of the 850 members and volunteers of Kansas Advocates for Better Care. KABC is a not for profit organization with a mission to improve the quality of long-term care in Kansas. We began in 1975 as Kansans for the Improvement of Nursing Homes.

There is one reason that adults go to Kansas nursing homes--Nursing Care.
There are 18,700 adults living in Kansas nursing homes.

There is an indisputable correlation between the number of nurses (*registered and licensed practical*) who provide direct care to residents on a daily basis (high “nurse staffing” levels) and high quality of care and quality of life for residents. Numerous reports and studies (*over 70*) confirm that nursing facilities provide better care to their residents, and residents have better outcomes, when facilities are adequately staffed. No report finds better quality with fewer staff.¹

The current **Kansas MINIMUM standard set for nursing care per adult is 1.85 average hours in 24 hours with a weekly average of 2.0 hours per adult per day.** Nursing staff is defined as Registered Nurses, Licensed Practical Nurses, Certified Nurse Aides, Certified Medication Aides and Paid Nutrition Assistants.

The current **minimum standard was set over 30 years ago.** The nursing staff to adult ratio is 1 nursing staff for every 30 adult residents. That translates to RN .08, LN .48, DC 2.0 Total 2.06 hours per resident day. (from Nursing Home Staffing Standards in 50 States, Charlene Harrington, University of California, San Francisco, 2002)

The level of acuity for adults in nursing homes has continually risen over that same period, with no corresponding increase in the minimum standard for care hours.

Kansas Nursing Homes report their nursing staff hours to KDOA each year for Medicaid reimbursement. In the past two report years, the average number of hours per resident per day ranged between 3.75 and 3.59 hours (2009/2010). The highest of 5.7 hours per resident per day and the lowest of 1.4 hours of resident per day illuminate the disparity in care received by adults. Out of the 342 nursing homes in Kansas, 126 facilities exceed the average and 151 homes fall below the average.

247 of nursing homes fall below the CMS identified threshold of 4.1 hours per resident day that prevent hospitalization and illness.

A 2001 study completed for Centers for Medicare and Medicaid Services (CMS) identified minimum staffing thresholds below which residents were at significantly greater risk of harm. These thresholds were 2.8 hours per resident per day for nurse aides, 1.3 hours for RN and LPN combined staff time, and .75 hours for RNs. Residents in facilities that fell below the minimum staffing thresholds were at significantly greater risk of hospitalization for potentially avoidable causes, lack of functional improvement, incidence of pressure sores and skin trauma, lack of improvement in resisting assistance from staff (a sign of problems in the relationship between residents and staff), and weight loss. (Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes, Report to Congress: Phase II Final Volume I.)

We recognize that this is a significant change. But we believe it sets a reasonable MINIMUM standard of direct nursing care at the beginning of a major overhaul of the Medicaid system and sets in place the ability to measure meaningful health outcomes against adequate staffing levels.

Kansas nursing homes are being paid, on average more than \$3,500 per month per recipient. Taxpayers, families, residents -- all of us hold the expectation that our friends and family members will get the nursing care they need. That's what we are paying for.

Nursing homes have been paid back for the past rate cuts, have had rates adjusted forward after being frozen and given a \$7.8 million rate increase -- all a result of the provider tax. On average, nursing homes have each seen an increase of \$139,640 from the provider tax.

KABC maintains a consumer help line. We receive hundreds of calls each year and the overwhelming majority of the questions and requests for help we receive are related to lack of nursing staff to assist a nursing home resident, or lack of knowledgeable, trained staff to adequately address a health care need.

It is because of elders' requests for help and our commitment to all Kansas elders and adults in nursing facilities that we ask the Committee to address the need for increased nurse staffing minimums to at least the levels determined necessary to protect adults from illness, injury, death and to maintain functional levels.

KABC asks the Committee to request an interim committee hearing for 2012 on the need for increased nursing staffing minimums.

We know that we all want better health outcomes for nursing home residents. What we don't have is good baseline data to measure those outcomes. We are hopeful that the Legislative Post Audit, currently in progress, will help direct us toward building meaningful measures of quality care.

References

¹ Toby S. Edelman and Charlene Harrington, "An Analysis of the Shirlee Sharkey Report on Long Term Care Homes Human Resource Issues in Ontario." Research commissioned by the Ontario Health Coalition, December 2009. http://www.cupe.on.ca/aux_file.php?aux_file_id=2556

K.S.A. 28-39-154. Nursing services. Each nursing facility shall have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident as determined by resident assessments and individual plans of care.

(a) *Sufficient staff.* The facility shall employ sufficient numbers of each of the following types of personnel to provide nursing care to all residents in accordance with each resident's comprehensive assessment and care plan.

(1) The nursing facility shall employ full-time a director of nursing who is a registered nurse. The director of nursing shall have administrative authority over and responsibility for the functions and activities of the nursing staff.

(2) *A registered nurse shall be on duty at least eight consecutive hours per day*, seven days per week. The facility may include the director of nursing to meet this requirement.

(3) *A licensed nurse shall be on duty 24 hours per day*, seven days per week.

(A) On the day shift there shall be the same number of licensed nurses on duty as there are nursing units.

(B) If a licensed practical nurse is the only licensed nurse on duty, a registered nurse shall be immediately available by telephone.

(4) At least *two nursing personnel shall be on duty at all times* in the facility. Personnel shall be *immediately accessible to each resident* to assure prompt response to the resident call system and necessary action in the event of injury, illness, fire, or other emergency.

(5) The nursing facility shall not assign nursing personnel routine housekeeping, laundry, or dietary duties.

(6) Direct care staff shall wear identification badges to identify name and position.

(7) The nursing facility shall ensure that direct care staff are available to provide resident care in accordance with the following minimum requirements.

(A) Per facility, there shall be a *weekly average of 2.0 hours of direct care staff time per resident and a daily average of not fewer than 1.8.5 hours during any 24 hour period.* The director of nursing shall not be included in this computation in facilities with more than 60 beds.

(B) The ratio of nursing personnel to residents per nursing unit shall not be fewer than *one nursing staff member for each 30 residents* or for each fraction of that number of residents.