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The Honorable Senator Vicki Schmidt  
Chair, Senate Public Health and Welfare Committee

Reference: Nursing Home Quality /Staffing Hours

Good afternoon Madam Chair and Members of the Senate Public Health and Welfare Committee. My name is Maren Turner and I am the Director of AARP Kansas. AARP represents more than 340,000 members across Kansas. I am a former long-term care ombudsman from the District of Columbia, where I monitored and advocated for individuals in nursing homes and other long-term care environments. I am also a former monitor for intermediate care facilities (ICF) and community residential facilities (CRF), also in the District of Columbia. Thank you for this opportunity to express our comments and support of increasing nursing home staffing hours in Kansas nursing homes.

### **AARP POSITION**

AARP Kansas promotes regulations and legislation that will improve the quality of nursing home care in Kansas nursing facilities. We have long been a proponent of long-term care services and assisting the state in achieving the highest quality of care possible for nursing home residents. We believe that older adults have the right to be provided the best quality of care and should not be subjected to a lesser quality of care at a time when they are most vulnerable.

### **Background**

When families make the very important and difficult decision to admit their elderly loved ones into a nursing home, they should have confidence that their parents, grandparents or loved ones are in good care. Nursing homes are often a crucial last resort for older adults who have disabilities or chronic illnesses. However, gaps in laws that regulate nursing homes and understaffing have lead to deficiencies and abuses that have jeopardized this vulnerable population.

The last significant legislation on the matter of nursing home quality was the Nursing Home Reform Act within the Omnibus Budget Reconciliation Act of 1987 (OBRA '87). Although OBRA '87 was

a commendable effort that addressed many pressing issues, there still remain significant gaps in consumer protection and quality enforcement. State governments have a duty to ensure the quality of nursing homes. But a Government Accountability Office (GAO) review found that many states are failing to identify problem facilities. The GAO has reported chronic quality deficiencies in low-performing nursing homes that can cause actual harm to residents. In addition, a recent study at the University of Chicago found that about 13 percent of older adults reported mistreatment at a nursing home. In 2010, 32.2 percent of Kansas nursing homes received deficiency ratings for actual harm or jeopardy to their residents.

## **PROBLEM**

The elderly population of Kansas is increasing. According to the 2010 census, 13.2 percent (376,116) of the population of Kansas is 65 years of age or older. Of that number, Kaiser Family Foundation reported that in 2010 over 18,700 Kansans resided in the state's 339 nursing homes. That number of Kansans over 65 is expected to grow to be 20 percent (605,000) of the population by 2030. Because of increased longevity, many Kansans will exhaust or outlive their own resources and eventually require assistance from the Medicaid program.

### **Current Staffing Levels**

The Nursing Home Reform Act requires that nursing homes provide, at a minimum, eight hours of registered nurse (RN) coverage and 24 hours of licensed practical nurse (LPN) coverage per day. In addition, the law requires nursing homes to provide the scope of care and services (including sufficient qualified staff) to ensure that each resident can attain or maintain his or her "highest practicable physical, mental and psychosocial well-being."

A 2002 study by the 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. The study provides evidence that 97 percent of nursing homes had staffing levels that fell below these thresholds.

In Kansas, the current required minimum , by law, is 2 hours of direct care by nursing staff each day with no increase in the minimum care requirement for more than 30 years, while the level of frailty of persons living in nursing facilities, and the assistance they require, has climbed steadily upward. Nursing staff includes Registered Nurses, Licensed Practical Nurses, Certified Nurse Aides and Certified Medication Aides, nurse aid trainees, nutrition assistants and mental health technicians. Staffing levels are self-reported by Kansas nursing homes at or around the time of survey and many homes report care levels above the state minimum. Staffing levels could be reported on employee payroll reports for a better understanding of ongoing staffing levels in Kansas. A study by the Centers for Medicare & Medicaid Services (CMS) said “facilities self-reported staffing and quality measure data cannot be relied on to provide an accurate picture of a nursing facility.”

The goal of minimal staffing requirements should be to increase the thresholds to at least the levels determined necessary to protect from or prevent illness, injury, death and to maintain functioning levels. 2010 findings from the Kaiser Family Foundation revealed a 50-state comparison of the percentages of certified nursing facilities with top ten deficiencies. How did Kansas certified nursing homes compare to the national percentage of Certified Nursing Facilities with top ten deficiencies?

- Accident Environment: Kansas - 60% versus national - 43%;
- Quality of Care: 42% versus 34%;
- Comprehensive Care Plans: 57% versus 28%;
- Unnecessary Drugs: 67% versus 23%.
- Food Sanitation: 55% versus 39%.
- 32.2% of Kansas certified nursing facilities received a deficiency for actual harm or jeopardy, compared to the 50-state rate of 23.4%.

All of these findings indicate a serious need for improvement that can be addressed through increasing staffing hours.

## **Solution**

In a recent AARP Kansas survey of members and non-members, Republicans and Democrats, “Voices of 50+ Kansans-Dreams and Challenges” revealed that over four in five respondents support strengthening enforcement of quality standards in Kansas nursing homes.

Also late in 2011, AARP Kansas released a state-specific Long-term Care Services and Supports (*LTSS*) *Scorecard* on the status and quality of services available to seniors, adults with disabilities, and family caregivers. The *Scorecard* is designed to help states improve the performance of their LTSS systems so that older people and adults with disabilities in *all* states can exercise choice and control over their lives, thereby maximizing their independence and well-being.

The *Scorecard* examines state performance across four key dimensions of LTSS system performance including quality life and care. All 50 states and the District of Columbia were ranked.

Kansas rankings included:

- 13<sup>th</sup> - Percent of high-risk nursing home residents with pressure sores (2008)
- 38<sup>th</sup> - Nursing home staffing turnover: Ratio of employee terminations to average number of active employees (2008).
- 35<sup>th</sup> - Percent of long-stay nursing home residents with a hospital admission (2008).
- 14<sup>th</sup> - Quality of life and quality of care.

## **Impact of Improved Performance**

If Kansas improved its performance to the level of the highest-performing state:

- Significant improvements in quality of life and care for Kansas nursing home residents.
- Reduction in nursing home turnover.
- 1,905 unnecessary hospitalizations of people in nursing homes would be avoided.

Proposed legislation such as SB184 would raise the floor or Kansas minimum requirement of care that each nursing home resident receives daily and would result in improved quality of care and better outcomes for residents.

AARP believes that as a minimum step, state governments should establish specific minimum staffing levels not less than the minimum thresholds identified by the Centers for Medicare and Medicaid Services (CMS) and require that facilities exceed the absolute minimum number of staff to ensure that each resident can attain or maintain his or her “highest practicable physical, mental and psychosocial well-being” as required by OBRA ‘87.

No fewer than four national studies have researched and recommended increased resident care by nursing staff in nursing facilities. Those same studies have concluded residents have improved outcomes when receiving levels of care from 4.13 up to 4.85 hours per day. The 4.44 suggested is the mid-range recommended of increase.

Kansas can see savings in reimbursement based upon nursing facilities cost reports from those facilities below the 4.44 hours per patient day (hprd) recommended staffing level. Facilities can see reduced costs of:

- hospitalization,
- lower worker compensation costs related to less worker injury (currently high in the nursing facility industry),
- reduced cost of supplies and drugs for incontinence and nutrition, and
- reduced turnover and the expenses related to recruiting and training new staff (estimated at four times an employee's monthly salary).

In 2011 The Legislative Post Audit Committee (LPAC) voted to provide research on this issue to reveal the real costs and savings to Kansas for increasing nursing hours to the proposed levels. Findings from the LPAC research should be available later this month or April. We also request your support of further studies of this issue in an interim hearing later this year following the release of the LPAC report on true cost, saving and benefits of these proposed increases.

Finally on behalf of our more than 340,000 members in Kansas, AARP Kansas would respectfully request your support of increasing nursing home care hours in Kansas Nursing homes.

Respectfully,  
Maren Turner