

Board of Adult Care Home Administrators

To: Chairman Estes, and Members, Senate Federal and State Affairs Committee
From: Amy Hoch-Altwegg, Chair, Kansas Board of Adult Care Home Administrators
Date: March 7, 2018

Testimony in Opposition to Senate Bill 421

Good morning Chair Estes and members of the Senate Federal and State Affairs Committee. The Board of Adult Care Home Administrators (BACHA) is a seven-members board whose members are appointed by the governor. The statute requires that two members be representatives of professions and institutions concerned with the care and treatment of chronically ill or infirm elderly patients; two members be consumer representatives and three members be licensed in Kansas as adult care home administrators. The board is attached to the department for aging and disability services who serves as the administrative agency for the board. The attorney for the board is an assistant attorney general and the office of the attorney general serves as the enforcement agency for the board.

Some of the responsibilities of the board include: Developing and enforcing standards to be met by individuals in order to receive a license as an adult care home administrator; Developing examinations and investigation for determining whether an individual meets those standards; Receiving complaints, investigating disciplinary matters and taking appropriate disciplinary action; The board also has the power to make rules and regulations. The Board meets at least four times each year.

The existing statutes define reasons that a license may be denied, revoked or suspended or a person holding a license may be reprimanded, censured or otherwise disciplined by the board, after notice and an opportunity for a hearing conducted by the board in accordance with the provisions of the Kansas administrative procedure act. Those reasons outlined include having *“been convicted of a crime found by the board to have a direct bearing on whether such person should be entrusted to serve the public in the capacity of an adult care home administrator”*

Thank you for this opportunity to submit our written testimony in opposition of Senate Bill 421. BACHA’s opposition to the bill is based upon four main concerns (1) time frames, (2) Limitation of 5 years and types of crimes; (3) type of parameters and due process and (4) difficulty in predetermining every crime would be an overwhelming task.

1. Time Frames

- A. The bill requires that within 120 days of the effective date, credentialing bodies revise their requirements to list the specific civil and criminal records that would disqualify the applicant from being credentialed.

To complete this task in four months would be problematic. Sifting through all the various possible criminal charges and making a determination would be difficult in the 120-day limit.

- B. The bill stipulates that an individual may petition the board for a determination of whether the individual's civil or criminal record will disqualify the individual and that the petition shall receive a response to within 30 days of receiving the petition from the applicant.

The statute requires that the board meet at least four times each year. To comply with this section of the bill may require that the board meet monthly.

- C. The bill requires that licensing bodies adopt and publicly maintain all necessary rules and regulations.

To update statutes and/or rules and regulations and have them published within the 120-day requirement would be problematic.

2. Limitation of 5 Years and Types of Crimes

Senate Bill 421 would impose a five-year limit on whether crimes can be considered. Person and sexual crimes are not the only type of concern for administrator qualifications. Non-person crimes involving fraud and theft would be an example. Under Senate Bill 421, a person could embezzle or defraud people, be convicted of felonies, goes to prison for years and the day they get out they could apply for their administrator license and the Board would not be able to take any of that into account. The individual does not have to show that they have turned their lives around, improved their character, or even made amends to their victim(s). They would just have to wait out the clock.

3. Parameters and Due Process

Senate Bill 421 would limit the board's ability to take other information such as aggravating or mitigating circumstances into account because it limits the time to five years for which the individual's criminal history would disqualify them as long as they have no new convictions and unless the conviction is for a crime that is a person felony or a sexually violent crime.

The board has a fair system in place and has documents available from the public website which outline their 'Disciplinary Process and Guidelines'. Additionally, the

current statute requires that a license may be denied, revoked or suspended or a person holding licensure may be reprimanded, censured or otherwise disciplined by the board, only after notice and an opportunity for a hearing conducted by the board in accordance with the provisions of the Kansas administrative procedure act.

4. Predetermining Every Crime Overwhelming

The bill requires that a board revise their existing requirements to list the specific civil and criminal records that would disqualify the applicant from receiving licensure. It would be an overwhelming task to sift through all the various crimes and predetermine which would prohibit licensure.

The Board of Adult Care Home Administrators has statutes, regulations and policies in place which address the various reasons, including criminal convictions, for which a license may be denied. This has proven to be effective and fair.

In light of the issues outlined in our testimony, we respectfully request members of the Committee to oppose passage of Senate Bill 421. Thank you for your consideration of this issue.