

To: House Corrections and Juvenile Justice Committee

From: Codi Thurness
Commissioner of Survey, Certification, and Credentialing Commission

Date: February 16, 2016

Subject: HB 2677, Limiting the ability of a licensing board to deny an occupational license based on prior convictions not directly related to the licensed occupation

Chairman Rubin and members of the Committee:

I appreciate the opportunity to submit testimony regarding HB 2677, legislation which will limit the ability of a licensing board such as the Kansas Department for Aging and Disability Services (KDADS) to deny on occupational license. In context, KDADS is responsible for administration of licensing, certification or credentialing of the following: Dietitians found at K.S.A 65-502b, Speech-Language Pathologist/Audiologist found at K.S.A. 65-6501, Adult Care Home Operators found at K.S.A. 39-974, and Adult Care Home Administrators found at K.S.A.65-301. Within KDADS, the Survey, Certification, and Credentialing Commission (SCC) has responsibility for administration of the adult care home licensure act found at K.S.A. 39-923 et seq., including the statutory requirements contained within K.S.A. 39-970 that prohibit persons with specified criminal convictions from working in an adult care home.

KDADS finds HB 2677 problematic in its current form. The language in HB 2677 lacks specificity or definition concerning the meaning of "*directly relates.*" The proposed legislation conflicts with the statutes below relating to the administration of KDADS licensure of adult care homes and other providers, as well as occupations licensed, certified or registered by KDADS. It is unclear whether the legislation would supersede other laws prohibiting employment of persons with certain convictions or adjudications. Examples of specific concerns by statute follow:

Adult Care Homes Statute
K.S.A. 39-970

This statute contains a detailed list of crimes of which convictions or adjudications serve as a prohibition to employment in an adult care home. For example, indecent liberties with a child, aggravated indecent liberties with a child are listed. The lack of specificity concerning the meaning of "*directly relates*" in the legislation makes it unclear whether these crimes against child victims would directly relate to employment providing care to adult care home residents.

Dietitian Statute

KSA 65-5911(a) The secretary may deny, refuse to renew, suspend or revoke a license where the licensee or applicant: (3) has been found guilty of a crime found by the secretary to have a direct bearing on whether such person should be entrusted to serve the public in the capacity of a dietitian;

Speech-Language Pathologist/Audiologist Statute

KSA 65-6511 Denial, revocation, suspension or limitation of license; grounds. The secretary shall deny, revoke, suspend or limit the license provided for in this act for any of the following reasons: (g) having been convicted of a crime found by the secretary to have a direct bearing on whether one should be entrusted to serve the public in the capacity of a speech-language pathologist or audiologist.

Operator Statute

KSA 39-980. Same; suspension, denial of, revocation of or refusal to renew registration; hearing; powers of secretary. (a) The secretary may deny, refuse to renew, suspend or revoke a registration where the operator or applicant: (3) has been convicted of a crime found by the secretary to have direct bearing on whether the registrant or applicant can be entrusted to serve the public in the position of an operator;

Adult Care Home Administrator (licensure issued by authority of BACHA)

KSA 65-3508 The license of an adult care home administrator or the temporary license of an adult care home administrator may be denied, revoked or suspended or the adult care home administrator or a person holding a temporary license as an adult care home administrator 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, if the adult care home administrator or person holding a temporary license as an adult care home administrator has: (d)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.

KDADS appreciates your time and consideration of these important issues.