



Timothy Keck, Interim Secretary

Sam Brownback, Governor

To: House Health and Human Services Committee

From: Kahlea Porter, KDADS Counsel

Date: March 18, 2016

Subject: SB 422, Providing for the licensure of certain facilities and standards for treatment of certain individuals

Chairman Hawkins and members of the Committee:

I appreciate the opportunity to present testimony in support of SB 422, legislation which provides updated and clear authority for the licensure of certain entities by the Secretary of the Kansas Department for Aging and Disability Services (KDADS). For more than a year, KDADS has engaged service providers and consumers to refine this legislation and, as a result of our conversations, the bill has no opposition from stakeholder organizations.

The purpose of SB 422 is to set forth, in statute, a more clear structure of licensure and enforcement for entities regulated by KDADS. This legislation continues our effort to clean up the statutes transferred to KDADS under the 2012 Executive Reorganization Order. It provides well-defined authority for the standards required of the licensed providers and entities who deliver care and services to the most vulnerable Kansans. In addition, it allows KDADS to comply with Federal regulations that have occurred over the last year, such as background check requirements and the Centers for Medicare and Medicaid Services Home and Community-Based Settings final rule.

Currently, KDADS licenses and regulates multiple facilities, hospitals, centers, and other service providers under authority provided primarily under a single statute: K.S.A. 75-3307b. This statute provides vague guidance for a wide variety of licensees including: Community Mental Health Centers, Community Service Providers, Private Psychiatric Hospitals, Psychiatric Residential Treatment Facilities, and Residential Care Facilities.

Due to the statute's current ambiguity, KDADS has instead relied upon widely scattered regulations for appropriate standards and enforcement of adherence for these specific entities. The purpose of this legislation is to identify *in statute* the structure for the licensure and enforcement process in a consistent, uniform, and efficient manner. It is important to note that the legislation will have no impact on entities not currently covered by K.S.A. 75-3307b, such as the Substance Use Disorder provider(s).

### Improving Process and Practice

The changes outlined in SB 422 will provide: (1) a consolidated, more defined licensure process; (2) increased protection for individuals receiving the care/services through background checks; and (3) support for provider expansion, as well as enhanced protection for individuals and communities, through an improved enforcement process that includes intermediate steps. I will briefly discuss each of these three issues.

### **(1) Consolidated and more defined licensure process**

The licensure process detailed in the legislation provides clear structure for the procedure that each licensee can expect and is designed to apply to multiple types of licensees. The updated statutes will alleviate the need to search across multiple locations to determine the applicable inspection and investigation process. This will provide clarity for each licensee regarding the responsibilities and standards required to maintain compliance. Consumers will have peace of mind in knowing that the entity providing their care has gone through a more robust, thorough licensure process than has occurred previously due to the lack of clearly-defined Agency authority. Individuals will be able to trust that the entity from which they receive services and/or care have standards that are both fairly and uniformly enforced.

### **(2) Increased protection to the individuals through background checks for service providers**

KDADS strives to ensure that those utilizing services or receiving care from one of the facilities, hospitals, centers, or other service providers licensed are receiving care and/or services from people who have passed a robust background check. During the drafting process, KDADS consulted with the Kansas Bureau of Investigation to make certain that the proposed KDADS background check process is comprehensive. This legislation will increase the uniformity and consistency of background checks to ensure Kansas consumers the same level of protection regardless of where they are receiving service or care.

### **(3) Engage providers through an enforcement process that allows for intermediate steps as an alternative to licensure revocation while providing protection for individuals served**

All licensees will have an opportunity to address compliance concerns through intermediate steps rather than face immediate closure. Individuals and the community will be able to avoid the impacts of immediate closures. Individuals will also be able to trust that, if they receive services from different licensees, there will be consistency of standards and enforcement among all licensees.

In summary, this legislation to consolidate and update statute will help KDADS maintain a better working relationship with the provider community and the entities we license, while also ensuring safety and quality of care for the Kansans we serve.

#### Proposed Amendment

I would like to briefly address a provision added to the bill during Senate debate, regarding the potential for a public-private partnership for the two state psychiatric hospitals operated by KDADS. Over the last three months, KDADS has discussed its desire – and we believe obligation – to examine all options for improving and sustaining the long-term future of a state hospital in Osawatomie. One of those options is to examine the potential of a public-private partnership by publishing a Request for Proposals (RFP).

KDADS understands and expects the legislature's desire to exercise due diligence and oversight of a potential RFP process, particularly any contract that might result from such proposals. However, it is our understanding that the intent is not to require action by the full legislature on the myriad of steps required to prepare an RFP. We believe that detailed function is regularly and properly delegated to the relevant state agency working in conjunction with the Department of Administration. We have repeatedly stated and continue to reiterate our commitment to additionally engage an advisory workgroup, including representatives of the legislature as well as other stakeholders, in the development of a quality RFP.

I appreciate the Committee's time and consideration. I welcome the opportunity to answer any questions you may have about this bill.