



To: Sen. Carolyn McGinn, Chair and Members, Senate Ways and Means Committee  
From: Rachel Monger, Director of Government Affairs  
Date: February 24, 2020

### **Testimony in Support of Senate Bill 409**

Thank you, Chairwoman McGinn, and Members of the Committee. I am Rachel Monger, Vice President of Government Affairs for LeadingAge Kansas, the state association for not-for-profit and faith-based aging services. We have 160 member organizations across Kansas, which include not-for-profit nursing homes, retirement communities, hospital long-term care units, assisted living, homes plus, senior housing, low-income housing, home health agencies, home and community-based service programs, PACE and Meals on Wheels. Our members serve more than 25,000 older Kansans each day and employ more than 20,000 people across the state.

LeadingAge Kansas strongly supports Senate Bill 409, which would eliminate the sunset for the nursing facility quality care assessment program.

#### **What is the Quality Care Assessment?**

In 2010, the Kansas Legislature passed a provider assessment for nursing homes. It is also known as a "bed tax." The assessment is levied on every licensed nursing facility, and calculated on a per-bed basis. A discounted 1/6<sup>th</sup> assessment rate is given to very small nursing homes, continuing care retirement communities and nursing homes which provide an especially large amount of Medicaid care.

The assessment money is collected and used by the State to pull down additional federal Medicaid dollars for the nursing home program. For the last ten years, the quality assessment program has supported our reimbursement methodology and provided essential funding for nursing homes that would have otherwise been required to come from the state general fund.

Federal funds that are drawn down by the assessment support quality of care in nursing homes. The funds pay for staffing, which is the biggest cost center for nursing homes. They are also used for other important areas of resident care, such as food, medical supplies, building maintenance, and activity programs. Last but not least, provider assessment funds support several quality incentive programs. There are incentives for improving staffing, person-centered care practices, and an annual resident satisfaction survey.

## The Sunset

### History

The nursing home quality care assessment was proposed in 2010, spurred by deep Medicaid budget cuts the state was forced to make during the great recession. LeadingAge Kansas strongly opposed the assessment, but in the end a compromise was reached between the stakeholders. As part of that compromise LeadingAge Kansas asked that a three year sunset be inserted into the law. The hope was that by 2013 the economy would have improved, and the state would be able to pick up their Medicaid funding obligations again. Unfortunately, by 2013 the economy may have improved but the state budget was in much worse shape. The assessment was increased to make up for the last few years of missing funding, and the sunset was pushed back another three years. When the sunset came back around in 2016, our system had deteriorated so badly that we more than doubled the tax in an effort to keep our heads above water. Again the sunset was pushed back, this time to July 1, 2020.

### Present Day

Without further action from the Kansas legislature, the nursing facility quality care assessment will sunset on July 1st of this year. The sun-setting of the nursing home provider tax would result in a \$66.7 million cut to nursing home Medicaid funding. A funding cut of that magnitude would devastate the operations of nursing homes across the state, causing drops in quality and staffing, and even closures for the most financially vulnerable homes. It is imperative that the legislature act to preserve this provider tax program.

*As the 10<sup>th</sup> anniversary of our quality care assessment nears, providers are now asking the legislature to remove the sunset entirely, and stabilize what has become an essential funding source for nursing homes in our state.*

The original intent of the sunset was to allow time for state budget conditions to improve and no longer necessitate this tax. While the state budget may be improving now, it did not improve in time. The quality care assessment has been in place for a decade, and due to urgent funding needs over those ten years, the assessment itself has increased by 227%. With so much of our basic funding at stake, we can no longer afford to put it on the chopping block every few years. The possibility that the state will find an extra \$66 million every year to give to nursing homes is remote. Our priority now is to preserve and stabilize the funding that has become a lifeline for nursing homes and their residents.

### The Future

Any future iterations of the nursing home provider tax are not dependent upon a sunset. Ideas and modifications for the assessment can be proposed at any time, through legislation, committee hearings and recommendations from the Quality Care Improvement Panel. All of these avenues have the benefit of being effective without the need to hold essential funding hostage every three years.

In the provider assessment statute the quality care improvement panel (QCIP) is made up of consumer and industry representatives who are supposed to provide a yearly report to the legislature concerning the use of any extra funds in the assessment program. There have never been extra funds in our quality

assessment program. Every dollar has been used to backfill funding the state was unable to provide throughout most of the last decade. Although the statute calls for the panel to meet annually, KDADS has only convened it when a sunset draws near. The panel and the sunset are not actually connected, and the agency should return to the original requirements in statute.

Due to a serious miscommunication among industry representatives, the recommendations from the QCIP this year do not reflect the position of any of the provider associations. That is unfortunate, but it has no bearing on our associations or the providers we represent. Senate Bill 409 was jointly introduced by LeadingAge Kansas and the Kansas Health Care Association, and reflects the agreement made between the two associations, just as it has the last two times we have renewed this program. Our associations have never, and would never, introduce legislation on behalf of the quality care improvement panel.

#### Conclusion

Ten years after our original compromise on the quality care assessment, LeadingAge Kansas requests that the legislature remove the sunset provision in the law. Our original intent behind the sunset has been satisfied, and we know now that the provider tax assessment will need to be with us for the foreseeable future. The quality care assessment now represents \$66 million of our rate funding, and our priority now is to ensure stability for what has become an essential source of support for quality nursing home care. We respectfully ask the committee to approve Senate Bill 409 for passage.