



To: Rep. Brenda Landwehr, Chair and Members, House Health and Human Services Committee

From: Rachel Monger, Chief Advocacy Officer, LeadingAge Kansas

Date: March 8, 2022

LeadingAge Kansas is 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.

Testimony in Support of Senate Bill 453

Senate Bill 453 is supported by a large coalition of health care providers, technical colleges and local business communities who are deeply concerned about the future stability of health care services in Kansas. Kansans' access to quality care is already being threatened by the current nursing shortage, and so we were all very worried to learn of CNA training programs cancelling class after class because there are not enough registered nurses to act as instructors for CNA courses. This was a problem pre-pandemic, and like everything else, was greatly exacerbated during the pandemic.

In a horrendous workforce crisis with no end in sight, we must find practical and immediate solutions for expanding nurse aide training in Kansas. There are only so many ways to do that under the very strict federal regulations in place for nurse aide courses. Making Kansas law match already robust federal regulations is the best path forward in our mission to expand and modernize our health care workforce.

Staffing Crisis

Over the last decade, and most especially the last two years of the COVID-19 pandemic, long term care has faced an ever-deepening workforce crisis. Unlike other employers struggling with worker shortages, long term care does not have the option of cutting hours or hanging up a "closed" sign on the door. They are 24/7 businesses with thousands of resident lives on the line. And they are in desperate need of help. Over the last year we have continued to survey

our long term care providers in Kansas. The surveys have shown a continuing deterioration in financial stability and a steadily worsening staffing crisis. The U.S. Bureau of Labor Statistics released a report in December that nursing homes and other residential care facilities lost another 11,000 jobs at the end of 2021, and we certainly feel that here in Kansas.

We hear from Directors of Nursing putting in 80 hour work weeks to cover nursing shifts on top of their immense duties as head of clinical care at the nursing home. We hear from administrators and other leaders working as nurse aides to care for residents in a desperate effort to keep afloat while staff members are sent home to quarantine. Twenty four months into this pandemic our workers are exhausted and so is our workforce pool. We have already seen the closing of a number of adult care homes over the last year, most if not all, citing staffing as a major factor in their closure.

Regulatory Background for Certified Nurse Aides

The current statute on adult care home staff requirements generically refer to “unlicensed employees of an adult care home”. As state and federal regulatory requirements have evolved over the decades, the phrase “unlicensed employee of an adult care home” has come to mean certified nurse aide.

Certified nurse aides (CNAs) are a category of worker created by the Centers for Medicare and Medicaid Services to provide direct care to residents of nursing homes. As they are famous for doing, CMS has also created detailed regulations around who can sponsor CNA training, who must supervise CNA training programs, who can be an instructor for CNA training courses, what the curriculum must contain for CNA training, where CNA training may take place, and who is allowed to certify a nurse aide as having completed their course and demonstrated all required competencies.

As a matter of necessity, the state of Kansas has adjusted its regulations to largely match CMS regulatory requirements, with one notable exception being addressed in SB 453.

Under CMS regulation CFR 483.152 Licensed Practical Nurses (LPNs) are allowed to act as nurse aide course instructors under the general supervision of a Registered Nurse (RN). Kansas regulation KAR 26-50-22 only allow RNs to be course instructors. Currently LPNs can act as a supplemental instructor, but only under the *direct* supervision of an RN. This Kansas requirement is more stringent than CMS regulation and has become a major impediment to desperately needed CNA training in our state.

Licensed practical nurses (LPNs) work as charge nurses in many adult care homes and directly supervise certified nurse aides without the presence of a Registered Nurse. CNAs provide basic assistance with daily living for residents and LPNs are more than qualified to act as CNA instructors. LPNs can perform such instruction under the general supervision of an RN just as they are allowed to do in all other aspects of their jobs.

What this bill does:

- Allows Licensed Practical Nurses (LPNs) to teach CNA courses under the general supervision of a registered nurse to alleviate the effect of RN shortages and expand the number of CNA courses in Kansas.
- Allows RN's with experience in caring for the elderly or chronically ill of any age to administer the skills demonstration portion of CNA competency evaluations regardless of the clinical setting of their experience.

What this bill DOES NOT do:

- **It does not change current CNA training hours or curriculum.** All CNAs, no matter their instructor, will be required to receive the same training, pass the same examinations and demonstrate the same competencies to a Registered Nurse with the same required professional experience.
- **It does not extend or make permanent “temporary aides”** as defined in recently passed HB 2477

The following states allow LPNs to act as instructors in CNA training programs:

- Texas since 2018
- Oklahoma since 2002
- Colorado since 2007
- Arkansas since 2020
- California – date unknown at this time

Certified Nurse Aides are the backbone of health care services in our state. CNA certification is a prerequisite for Certified Medication Aides, Home Health Aides, Licensed Practical Nursing and some Registered Nursing programs in Kansas. Finding ways to increase the CNA training pipeline is an essential part of solving workforce issues across the entire health care spectrum.

Not every program will want to use LPNs as nurse aide course instructors, SB 453 will simply allow flexibility for the programs that need it to ensure we continue training the health care workers we desperately need in Kansas.

We are working on a better future for Kansas seniors, and we are grateful for the strong partnerships we have forged with our Kansas legislators. Thank you for all you do for Kansans and thank you for your support of Senate Bill 453.