

# Making Elder Care Better Since 1975

Kansas Advocates  
for  
Better Care



February 21, 2013

## Chairwoman O'Brien and Members of House Children and Seniors Committee,

Thank you for holding a hearing on **HB 2348** and for your consideration of the need to increase nursing staffing minimums in nursing facilities. My name is Mitzi McFatrach and I am here today to speak up for increasing the hours of nursing care received by older adults living in nursing facilities. KABC is a not for profit, whose 850 members and volunteers are dedicated to improving the quality of care for older adults needing long-term care.

### Correlation between Nursing Care and Elders Outcomes

There is one reason that adults go to Kansas nursing homes--Nursing Care. There are approximately 19,000 adults living in Kansas nursing homes.

There is an **indisputable correlation** between the **number of nurses** (*registered and licensed practical*) who provide direct care to residents on a daily basis ("nurse staffing" levels) and the **quality of care and outcomes**, along with the quality of life older adults experience. Numerous reports and studies confirm that nursing facilities provide better care to their residents, and residents have better outcomes, when facilities are adequately staffed. No report finds better quality with fewer staff.<sup>1</sup>

### Current Minimum Nursing Staffing Standard in Kansas

The current Kansas minimum standard set for nursing care per adult is **1.85 average hours in 24 hours with a weekly average of 2.0 hours per adult per day.**

Nursing staff is defined as Registered Nurses, Licensed Practical Nurses, Certified Nurse Aides, Certified Medication Aides and Paid Nutrition Assistants.

The current minimum standard was set over 30 years ago.

The nursing staff to resident ratio is - 1 nursing staff for every 30 adult residents.

The minimum standard translates to:

- RN .08 hprd or 4.8 minutes for each older adult in 24 hours,
- LN .48 hprd or 28.8 minutes,
- Nurse Aide 1 hour & 26.4 minutes,
- Direct Care 2.0 hprd or 2 hours (combined RN, LN, Nurse Aide)
- Total 2.06 hours per resident day or 2 hrs. and 3.6 minutes. (Kansas standards from "Nursing Home Staffing Standards in 50 States", by researcher Charlene Harrington, University of California, San Francisco, 2002 and 2010)

Level of patient acuity for adults in nursing homes has substantially increased over the same 30 year period. However, there has been no corresponding increase in the minimum standard for nursing care hours.

### **Nursing Care Hours Reported in Kansas**

Nursing staffing hours are recorded by KDADS for one selected week out of each year and used to compile a report on daily and weekly averages by facility.

The most recent report available on KDADS website shows:

- 3.78 hprd or 3 hrs. 47 minutes as the average number of direct care hours received per resident
- 2.45 hours per resident, lowest at the Medicalodges Jackson County
- 6.26 hours per resident, highest at Brewster Place, Topeka & Legacy at Parkview, Ulysses

The lowest and highest hours illuminate the disparity in care received by older adults. Out of the 342 nursing homes in Kansas, 125 facilities meet or exceed the average and 193 homes fall below the average. 247 nursing homes fall below the CMS identified threshold range of 4.1 - 4.8 hours per resident day that prevent hospitalization and illness. (Report week, Dec. 4, 2011)

More than 70 nursing studies have been done over the past two decades. Many have recommended a minimum standard that would assure elders enough care to maintain their level of physical and cognitive function, avoid injury, illness and preventable deaths. None of the studies show better health care outcomes with less nursing staff.

### **Recommended Standard for Minimum Nursing Staffing**

The Centers for Medicare and Medicaid Services (CMS) study completed in 2001 identified minimum staffing thresholds below which residents were at significantly greater risk of harm. These thresholds range from **4.1 to 4.8 hours per resident per day** (4 hr. 6/48 min.) Hours were allotted as follows:

- 2.8 hours per resident per day for nurse aides,
- 1.3 hours for RN and LPN combined staff time, and
- .75 hours for RNs.

### **Harm to Elders below Recommended Minimum Standard**

Older adults receiving care in facilities where nursing staffing hours fell below the minimum staffing thresholds were at significantly greater risk of:

1. hospitalization for potentially avoidable causes,
2. lack of functional improvement (physical and mental),
3. incidence of pressure sores and skin trauma,
4. lack of improvement in resisting assistance from staff (a sign of problems in the relationship between residents and staff), and
5. weight loss

“*Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes*”, Report to Congress: Phase II Final Volume I

### **KDADS Surevors Document Low Staffing Impacts on Older Adults**

- 106 Kansas nursing facilities received 131 deficiencies between April 2009-Nov. 2012 specifically for failure to provide adequate nurse staffing.
- 2 facilities have been cited for 3 out of the four years (2009-12)
- “It is hard to do with only 2 aides. The RA (restorative aide) program is expected to be done by all CNA (certified nurse aide) staff. In the last month I would estimate

the restorative was not done (with residents) 16-20 times by the staff.” 2567 (surveyors’ report) Deseret Yates Center

- 10 residents were interviewed and asked the following question. "Do you feel there is enough staff available to make sure you get the care and assistance you need without having to wait for a long time?" Nine out of the 10 residents interviewed said "no" and had the following responses.
- “Especially on the evening and on weekends they are terribly understaffed.”
- “The staffing is low; I wear a diaper because they do not get me to the bathroom in time.”
- “They are short of staff, often we have to wait for a response.”
- The facility failed to ensure adequate staff for assistance with eating for dependent residents (#42, #16). [Please see F312 for additional information].
- The facility failed to ensure adequate staff for 4 residents at risk for pressure sores related to repositioning (#8, #30, #42, #12). [ Please see F314 for additional information].2567 Good Samaritan Winfield
- The facility failed to answer call lights timely, provide repositioning assistance to residents at risk for the development of pressure ulcers, routinely provide oral care, supervise the application of alarms to residents to prevent falls and provide thorough catheter care. This had the potential to affect all the residents in the facility. 2567 Good Samaritan Hutchinson Village

K.S.A. 28-39-154. Nursing services. Each nursing facility shall have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident as determined by resident assessments and individual plans of care.

(a) *Sufficient staff.* The facility shall employ sufficient numbers of each of the following types of personnel to provide nursing care to all residents in accordance with each resident's comprehensive assessment and care plan.

### **Costs, Savings, and Funding**

A 2012 Legislative Post Audit estimated the cost of implementation to be \$41 million SGF, almost the exact amount that will be collected and distributed through the Quality Assessment Fund.

Real savings have been documented in other states. A study conducted by University of Utah School of Medicine found that increasing the ratio of nurses to patients enough to allow nurses to spend between 30 and 40 minutes a day with a patient resulted in an annual savings to Medicaid of nearly \$3,200 per patient (in nursing facilities).

**\$32,000,000 = estimated cost savings** to Kansas based on the Utah study.

Policy Polit Nurs Pract. 2008 May;9 (2):88-93. “The business case for nursing in long-term care.” by Horn SD.

*“The cost of poor care in America’s nursing homes is staggering, whether it is measured by poor health outcomes and the number of lives lost, or by the amount of money spent on treating preventable conditions. While the trauma inflicted upon nursing home residents and their loved ones is not easily categorized and calculated, the financial costs are quantifiable. The financial burden of poor care rests not only on individuals and families, but also on all American taxpayers, through Medicare and Medicaid.” -- The High Cost of Poor Care: The Financial Case for Prevention in America’s Nursing Homes; the Consumer Voice; 2011*

### **Quality Care Assessment Fund**

“All moneys in the quality care fund shall be used to finance initiatives to maintain or improve the quantity and quality of skilled nursing care in skilled nursing care facilities in Kansas.” Section 1. K.S.A. 2012 Supp. 75-7435 (d)(2)

Since July 2011, Kansas nursing facilities 1) were paid back for 2010 Medicaid rate cuts, 2) daily rates have been rebased forward, 3) daily rates have been increased for inflation, and, 4) received a \$7.8 million rate increase -- all as the result of the Quality Care Assessment.

On average, nursing homes have each seen an increase of \$139,640 from the fund. **\$41.7 million dollars** will be collected and disbursed to facilities in fiscal year 2014 with reapproval of the **Quality Care Assessment** (HB 2160). Currently regulations written by the Dept. for Aging and Disability Services attaches **no quality improvement outcomes** to this financial windfall to facilities. Investing some of those funds into safer staffing levels and education fulfills the legislature’s and industry’s promise of quality improvements for older adults.

### **It Is Time To Improve Care and Outcomes**

It is well past time that Kansas reviews the minimum standard for nursing care to elders.

Of the hundreds of calls KABC receives each year the overwhelming majority of callers raise concerns related to the lack of nursing staff to assist an elder resident, or lack of knowledgeable, trained staff to adequately address an elder’s health care needs.

**On behalf of elder Kansans, we ask you to approve and pass out of Committee, HB 2348 which will address the need for increased nurse staffing minimums to the level determined necessary to maintain functional levels and protect adults from illness, injury, death.**

Respectfully,

Mitzi E. McFatrach, Executive Director

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<sup>1</sup> Toby S. Edelman and Charlene Harrington, “An Analysis of the Shirlee Sharkey Report on Long Term Care Homes Human Resource Issues in Ontario.” Research commissioned by the Ontario Health Coalition, December 2009. [http://www.cupe.on.ca/aux\\_file.php?aux\\_file\\_id=2556](http://www.cupe.on.ca/aux_file.php?aux_file_id=2556)