



To: Senator Beverly Gossage, Chair and Members, Public Health and Welfare Committee

From: Rachel Monger, President/CEO, LeadingAge Kansas

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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, home 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 HB 2408

LeadingAge Kansas strongly supports HB 2408, which resolves a long-standing question around the regulation of “beauty shops” in adult care homes. HB 2408 clarifies that the “beauty and barber shop” rooms required in nursing facilities by KDADS and CMS are to be regulated and inspected by KDADS and CMS, and are not required to be licensed salons under the Board of Cosmetology or Barbering. These so-called beauty shops are not salons in the traditional sense of the word, do not serve members of the public and are used for multiple resident purposes outside of cosmetology and barbering. These spaces are required to meet the stringent physical environment, health and infection control standards as every other part of a nursing facility, and for half a century the Kansas legislature has maintained that regulations from the Board of Cosmetology and Board of Barbering do not apply to adult care homes and hospitals.

History of Salon Licensing Issue and Its Application to Adult Care Home Settings

The issue of whether an adult care home must have a professionally licensed salon to provide hair care to residents dates back almost 50 years. The statutes and regulations governing this issue span four different agencies – the Kansas Department for Aging and Disability Services, the Kansas Department of Health and Environment, the Kansas Board of Cosmetology, and the Kansas Board of Barbering. As a matter of practice, the only set of requirements that have been applied and enforced for adult care homes are those found in KDADS regulations and adult care home statutes. Specifically:

- **K.A.R. 26-40-301(g)(4)(A)-(B); K.A.R. 26-40-303(i); K.A.R. 26-40-303(f)(A)-(B); K.A.R. 26-40-303(j)(Table 1a and Table 2a); K.A.R. 28-39-161; and Federal CFR 483.30**

These regulations require a nursing home to establish a room labeled as a “beauty and barber shop” to provide a space for resident hair care. The room must have specific equipment and workspaces, and must meet specific physical environment requirements regarding sinks, plumbing and ventilation. It

must also conform with the same sanitation and health care infection control requirements applicable to the rest of the building. KDADS inspects and enforces beauty parlor regulations as a normal part of the annual inspection. While not specified in regulation, it is universal practice that facilities contract with licensed cosmetologists to provide services to residents. These licensed cosmetologists have their own set of infection control and sanitation standards set by the Board of Cosmetology.

- **K.S.A. 39-938 In which the Kansas legislature makes clear that Board of Cosmetology and Board of Barbering regulations do not apply to adult care homes:**

Adult care homes shall comply with all the lawfully established requirements and rules and regulations of the secretary for aging and disability services and the state fire marshal, and any other agency of government so far as pertinent and applicable to adult care homes, their buildings, operators, staffs, facilities, maintenance, operation, conduct, and the care and treatment of residents. The administrative rules and regulations of the state board of cosmetology and of the Kansas board of barbering shall not apply to adult care homes.

- **K.A.R. 69-6-3** Board of Cosmetology regulation that states that cosmetologists must work in a licensed salon unless they are providing services in a nursing home, hospital or in the home of an “invalid.”

Do adult care homes have licensed salons?

In general, the answer is no. Nursing homes and assisted living providers all have a beauty/barber parlor as required by KDADS, and contract with a licensed cosmetologist to provide services to residents. The exception to non-licensing is usually found in retirement communities who have opted for licensed salons on their campus to serve both adult care home residents and independent living residents.

Why Licensed Salons Should Not Be Required in Adult Care Homes

No major issues or examples of harm resulting from beauty and barber services provided in an adult care home have ever been presented by the Board of Cosmetology. These services have been safely and successfully provided in the same way, in the same rooms and under the same standards for decades. We do have many concerns about the negative effect salon licensing will have on our providers and residents. These concerns revolve around the high cost of unnecessary regulation and the even higher cost of government intrusion into resident choices and services.

The Costs of Unnecessary Regulation

Adult care home resources are stretched to the limit. Their resources must go to resident care, not to the compliance costs and penalties of unnecessary and duplicative regulations. If forced to create a licensed salon in their building, an adult care home would also be forced to follow a triple set of regulations from KDADS, KDHE and the Kansas Board of Cosmetology.

They will also have double inspections and perhaps even double penalties for failing to follow one of the three sets of regulatory rules. It is unfair and unnecessary.

Salon licensing will also be a huge cost to providers when it comes to physical environment changes. They will not only bear the normal costs of construction, but also the extra labor costs required by the multi-agency regulatory process accompanying any physical environment changes in an adult care home. Every building is unique, and there are any number of ways our providers will need to change their beauty rooms and beauty services to meet salon licensing requirements. An obvious example is smaller resident units who are allowed by KDADS to share their beauty parlor space with resident bathing facilities, as long as those two activities do not interfere with each other. This would no longer be allowed under salon licensing rules. The Board of Cosmetology has confirmed that either a new room must be constructed, or a separation barrier must be built between the two areas. We cannot stress enough that adult care homes do not have the resources to waste on changing beauty parlors that have been serving residents well for decades.

The Cost of Government Intrusion for Residents

Forcing adult care home beauty parlors into licensed salons will have a material impact on the lives of our residents. Salon licensing will affect resident choices and services in many ways by forcing providers to severely limit access to the beauty parlor in order to avoid steep fines from the Board of Cosmetology.

There are many uses for the beauty parlor space and equipment outside of the regularly scheduled licensed cosmetology services brought in by the adult care home.

Here are just a few examples:

- Families use the beauty parlor to cut and care for their loved one's hair
- Residents bring in their own licensed cosmetologist to care for their hair
- Staff use the shampoo sinks for residents with bathing challenges
- Podiatrists use the salon chairs as an ideal way to perform care on residents

While salon regulations may not explicitly prohibit these activities, the Board of Cosmetology has confirmed that if any of these uses do not comply with every regulation, the adult care home will be on the hook for thousands of dollars in fines. The worst fear is that the Board of Cosmetology will try to discipline an adult care home by prohibiting them from providing any cosmetology services at all for residents. To avoid these very serious consequences, many adult care homes will have to shut down access to the beauty parlor to anyone but their contracted cosmetologist.

While always a concern, the COVID-19 pandemic has made us hyper-aware of the ways that government agencies can intrude into the daily lives of our residents. Salon licensing unnecessarily limits basic choices and freedoms of our residents, and unnecessarily robs

them of access to services and equipment that better their lives. While some government intrusions can be justified, *unnecessary* government intrusion must not be tolerated.

We respectfully ask the committee to vote Yes on HB 2408 and to clarify once and for all that adult care homes are not required to have licensed salons in their buildings.