

Date: May 15, 2017

To: The Honorable John Barker, Chair  
House Federal and State Affairs Committee

FROM: Ernest Kutzley, Advocacy Director, AARP Kansas

RE: HB 2427, Adult care home licensure and background check.

Good morning Chairman Barker and members of the House Federal and State Affairs Committee. Thank you for this opportunity to submit our written testimony in support of House Bill 2427, which would require The Kansas Department for Aging and Disability Services (KDADS) to perform a fingerprint-based background check for people working in adult care homes. AARP Kansas staff and volunteers have worked closely with KDADS and other service providers to draft language in HB 2427.

As a nonprofit, nonpartisan social welfare organization with a membership and offices in all 50 states, AARP's mission is to help people 50 and older have independence, choice and control in ways that are beneficial and affordable to them and society as a whole. We seek to help older Americans live long and healthy lives.

The care provided in long-term services and supports (LTSS) settings is only as good as the personnel who provide it. Indeed, workforce challenges abound in the LTSS industry and need to be addressed swiftly if the nation is to respond to the growing need for high-quality care. Lack of staff, inadequate training, and an insufficient number of bilingual workers and workers sensitive to different cultures are all serious problems. So are workers who have committed abuse or have criminal backgrounds.

**Registries**—all states are required to have registries with information on nurse aides eligible to work in nursing facilities. Some states have expanded their registries to

include other direct service workers, including medication aides, home health aides and developmental disability aides.

**Criminal background checks**—because no national registry of abusive workers exists, people who have a record of abuse or serious crimes in one state can simply travel to another state to find work. They can also move from working in nursing facilities to home health agencies or supportive housing without ever undergoing a criminal background check.

Although the federal government does not require criminal background checks of LTSS workers, increasing numbers of states do. Certain states require statewide or national criminal background checks for certified nursing assistants (CNAs) and assisted living staff. In addition, states that require statewide criminal background checks may also mandate a national background check under certain circumstances, such as when applicants have recently relocated from other states. Some states bar employment if certain offenses are found. A 2011 study by the U.S. Health and Human Services Office of the Inspector General reported that 43 states required nursing facilities to conduct a Federal Bureau of Investigation (FBI) or a statewide criminal background check on prospective employees; ten required FBI and statewide checks. State laws vary considerably in terms of who is screened and exempted, what convictions preclude employment and for how long, what provisional employment is permitted while checks are conducted, and who pays for screening. Some state laws have an exemption clause for workers hired directly by the care recipient.

Kansas policymakers should require nationwide criminal background checks prior to employment on all workers who provide LTSS or who are employed in LTSS settings. Although people in self-directed programs may request background checks, those checks should not be required for parents, spouses, partners, close relatives, or close friends when hired through self-directed programs.

- Individuals who have been convicted of burglary, larceny, violent crimes, or crimes involving abuse or neglect of vulnerable individuals should be prohibited from employment in LTSS settings.

- The national background checks should be affordable and conducted in a timely manner prior to employment and should include a fingerprint check.
- States should require that providers notify appropriate state licensing or registration boards of all employees convicted of a felony, resident abuse, or having knowledge of but failing to report abuse.
- After due process, the state board should consider suspending or revoking the employee's license, registration, or certification.

For AARP's more than 320,000 members in Kansas, we respectfully request your support of HB 2427. Thank you for your consideration of our comments.