



To: Rep. Brenda Landwehr, Chair and Members, Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight

Date: September 28, 2020

The Fight Against COVID-19 in Long Term Care

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.

We thank you for the opportunity to update the Committee on the challenges our members and their residents continue to face in this pandemic. Nursing homes and assisted living communities have been some of the hardest hit by COVID-19 in Kansas and across the nation. There are many reasons, documented by experts, why COVID-19 spreads so quickly within nursing homes. By design, these care settings are home to a high concentration of older adults with serious underlying health conditions who live in a communal environment and require hands-on assistance with basic activities of daily living like dressing and bathing. There are many things about the virus we do not fully understand, and it has a very high rate of asymptomatic and pre-symptomatic spread. This combination of factors makes the virus extremely challenging to control, even for nursing homes that have honed their infection-control and prevention protocols during scores of influenza seasons.

Adult care homes continue to face challenges in this pandemic, and we ask that our elected officials keep us at the forefront of the COVID-19 response to help us protect the thousands of vulnerable adults we serve.

Testing

On September 4, 2020, the federal government issued a new testing mandate for nursing homes across the country. CMS now requires nursing homes to conduct staff surveillance testing at intervals determined by their county positivity rates. Nursing homes in counties with a positivity rate of less than 5% must test all staff for COVID-19 once a month. Counties with a 5-10% positivity rate must have weekly testing of all nursing home staff, and counties at 10+% must test twice a week. The surveillance testing is supposed to be achieved through "point of care" antigen testing machines being sent to nursing homes

Access to critical testing tools that would help nursing homes identify and isolate staff and residents who have been exposed to the virus. However, nursing homes have now been handed a testing mandate that is impossible to meet in many cases across the state. Here is a brief listing of obstacles faced by nursing homes in surveillance testing of staff:

- The antigen testing kits sent with the point of care testing machines will only last through one to two rounds of staff testing. Additional antigen testing kits are back ordered until at least the end of October
- Nursing homes who have not received a point of care machine, or homes that have run out of the antigen testing kits, must rely on private labs. CMS requires that private lab results be turned around in 48 hours or less. Many labs in the state cannot meet this required timeframe.
- COVID-19 testing is very expensive and can run anywhere from \$40 - \$200 a test. Nursing homes have received some money from CMS to use toward testing, and have started receiving their share from the State SPARK fund, however for those homes in weekly and twice-weekly testing counties this emergency funding will only pay for a few months' worth of testing. Absent another large round of emergency funding or a serious reduction in COVID-19 transmission in the populous areas of our state, payment for the testing mandate is unsustainable.

CMS has stated that if a home documents that they are unable to access testing to meet the new mandate it will not count against them in the survey process. However, it remains unclear to what lengths homes are required to obtain testing, what geographic area they are expected to cover in their search, and what level of financial straits a home must be in to qualify as unable to afford testing. Failure to meet CMS testing requirements could lead to a devastating amount of fines and denials of government payments.

Personal Protective Equipment

Adult care homes need proper personal protective equipment—including masks, gowns, and gloves – and the supply chain remains weak for most of this important safety equipment. They have no priority access to proper PPE, and little ability to compete for it on the open market. The price of PPE and other supplies continue to skyrocket, and our providers find it difficult to purchase enough supplies just for regular everyday use. Locating enough equipment and supplies for a facility-wide outbreak looks hopeless for many.

Nursing homes received their shipment from FEMA with one weeks' worth of PPE, however much of the equipment was not medical grade. Under House Bill 2016 passed in June, KDADS was directed to provide PPE and other supplies to adult care homes to fight COVID-19. The agency is working on setting up a state purchasing contract, but it is still not available. In addition, providers will still have to find the money to pay for their needed supplies.

Staffing

Long term care workers are on the frontlines of this pandemic, and they are healthcare heroes. Like many other health care providers, our staff are working long hours without enough PPE, and without any assurance that they will not contract this virus and carry it home to their loved ones.

The workforce crisis in long term care long pre-dates COVID-19. Our financial constraints mean we cannot compete with Walmart or McDonalds, let alone other health care providers. Caregiving is a physically and emotionally demanding job, and combined with low pay,

recruitment is difficult. Add a pandemic on top of it, and our staffing issues remain dire.

Resident Visitation

On September 17, 2020 CMS released revised guidance on in-person visitation for nursing home residents. The new guidance contains many details and quite a few gray areas, but in a nutshell, it states that nursing homes that have not had a COVID-19 case in the last 14 days and are located in a county with a positivity rate under 10% must facilitate in-person visitation for residents. Outdoor visitation is preferred in the federal guidance, but indoor visits are allowed with many more clinical and operational restraints on how it is conducted. Testing of visitors is not required but is strongly encouraged by CMS.

Despite the new visitation expansion being allowed by the federal government, nursing homes and residents are still largely at the mercy of the larger community. If COVID-19 transmissions continue to rise and spread, lockdowns and visitor restrictions will continue even under the new federal guidance.

The restriction on visitation has been heartbreaking for residents and families. Our providers are also heartbroken. Members contact us every day about the suffering of their residents from the months-long isolation from loved ones and the outside world. They fear that the cure has been worse than the disease and are trying their best every day to balance safety with the deeply human need for connection and family.

The safety of residents and staff, along with government regulation and personal injury litigation, mean that adult care homes must remain extremely cautious about re-opening to outside visitors. Our members are doing their best to help their residents out of isolation. Communication and visitations continue via video chat and other non-contact methods for those homes that must remain under lockdown.

Thank you for the opportunity to lay out our challenges today in fighting COVID-19 in long term care settings, and their mounting struggle to pay the spiraling costs of expensive testing supplies, PPE and staffing. We appreciate the legislature's strong commitment to working on behalf of older Kansans amid the COVID-19 crisis and we stand with you to act urgently to provide the support older adults and senior care providers so desperately need and deserve.