

SESSION OF 2016

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2365**

As Agreed to April 29, 2016

Brief*

Senate Sub. for HB 2365 would increase the maximum annual amount of the quality care assessment and extend its sunset date, and also would update and make changes to the membership of and reporting requirements on the Quality Care Improvement Panel.

The bill would increase the maximum annual amount of the quality care assessment from the current \$1,950 to \$4,908 per licensed bed. The bill also would extend the expiration date of the assessment by four years, from July 1, 2016, to July 1, 2020. The bill would require the implementation of the statutory three-year rolling average to determine nursing facilities' reimbursement rates, notwithstanding the provisions of the 2015 appropriations bill for FY 2017.

In addition, the bill would update reference to the Kansas Homes and Services for the Aging to the entity's new name, LeadingAge Kansas, in relation to the Quality Care Improvement Panel membership. The bill also would increase the membership of the Quality Care Improvement Panel from the current 11 members to 13 members. One of the new members would be appointed by the President of the Senate and be affiliated with an organization representing the interests of retired persons, and the other new member would be appointed by the Speaker of the House of Representatives

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and be a volunteer with the Office of the State Long-Term Care Ombudsman.

The bill also would specify the currently required annual report from the Quality Care Improvement Panel be submitted to the Senate Committees on Public Health and Welfare and Ways and Means, the House Committees on Health and Human Services and Appropriations, and the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight. (Under current law, the report must be provided annually to the Legislature on or before January 10 and address the activities of the panel during the preceding calendar year and any recommendations which the panel may have concerning the administration of and expenditures from the Quality Care Assessment Fund.)

The bill would direct the annual report also include information regarding the reduction of use of anti-psychotic medication for elders with dementia, participation in the nursing facility quality and efficiency outcome incentive factor, participation in the culture change and person-centered care incentive program, and annual resident satisfaction ratings.

The quality care assessment is a provider assessment, which is a mechanism used to maximize the amount of federal funding for the state by generating new state funds. After collection, the additional funds are used as the state match to draw down additional federal funds. This results in increased Medicaid payments to providers for Medicaid eligible services.

Conference Committee Action

The Conference Committee agreed to remove all provisions of the bill and insert provisions pertaining to the nursing facility quality care assessment (SB 457, as amended by the Senate Committee of the Whole). (Senate Sub. for HB 2365 was a 2015 appropriations bill for state agencies.)

Background

Following is background information on SB 457, the subject of this Conference Committee report.

SB 457 Background

The bill was introduced by the Senate Committee on Ways and Means. At the Senate Committee hearing, representatives of the Kansas Health Care Association and LeadingAge Kansas appeared as proponents. Proponent testimony generally stated a need to extend the sunset for the provider assessment and increase the amount of the assessment as a means to provide increased Medicaid nursing facility reimbursement through the rebasing of the reimbursement rates without the use of additional State General Fund moneys. Proponent testimony also stated that, without an extension of the sunset, Medicaid reimbursement rates for nursing facilities would be reduced beginning July 1, 2016. Written proponent testimony was provided by a representative of the Kansas Adult Care Executives.

A representative of the Kansas Department for Aging and Disability Services (KDADS) provided neutral testimony, indicated support for the extension of the sunset of the provider assessment, and noted the annual loss of \$50.0 million in Medicaid reimbursement to nursing facilities if the current provider assessment sunsets on July 1, 2016. The representative noted KDADS did not have a position on the amount of the assessment proposed by the bill and provided scenarios for the provider assessment considered by the Quality Care Improvement Panel which is facilitated by KDADS. A representative of Kansas Advocates for Better Care provided neutral testimony on the bill and discussed the need to maintain or improve the quality of care in nursing facilities and noted a lack of auditing concerning the use of funding obtained through the existing nursing facility provider assessment. The representative also stated an option for use of the increased assessment could be to provide funding for

an increase in the amount of skilled nursing care required each day for residents of nursing facilities. Written neutral testimony submitted by AARP Kansas requested the increased funding be audited and expended to improve the quantity and quality of skilled nursing care in nursing facilities. There was no opponent testimony at the hearing.

The Senate Committee amended the bill to expand the membership of the Quality Care Improvement Panel and to specify which legislative committees would receive the existing annual report from the Quality Care Improvement Panel.

The Senate Committee of the Whole amended the bill to direct certain information be contained in the annual report of the Quality Care Improvement Panel. *[Note: the Conference Committee report would include all amendments.]*

The fiscal note prepared by the Division of the Budget estimates passage of the bill, as introduced, would result in collections of \$55.6 million from the provider assessment in FY 2017. These funds would then be expended in state share for the Medicaid program to draw down \$70.6 million in federal Medicaid funds, for a total of \$126.2 million in additional Medicaid expenditures in FY 2017. Any fiscal effect associated with the bill is not reflected in *The FY 2017 Governor's Budget Report*.

nursing facility quality care assessment; Kansas Department for Aging and Disability Services

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