

SESSION OF 2024

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2784**

As Amended by Senate Committee on Public  
Health and Welfare

**Brief\***

HB 2784, as amended, would transfer authority for certification of continuing care retirement communities (CCRCs) from the Kansas Insurance Department (Department) to the Kansas Department for Aging and Disability Services (KDADS).

The bill would also make technical changes.

***Definitions***

The bill would add a definition of CCRC to law regarding adult care homes. “Continuing care retirement community” would mean any place or facility that combines a range of housing and services to encompass the continuum of aging care needs provided at an independent living facility, an assisted living facility, a residential health care facility, home plus, or a skilled nursing care facility within a single place or facility to avoid the need for residents to relocate to a separate place or facility. The provision on community care would include the multiple levels of care provided as part of a CCRC.

The bill would also add a definition for “continuing care” in law regarding insurance uniform policy provisions. Continuing care would mean the multiple levels of care provided as part of a CCRC.

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

### ***Certification Authority***

The bill would transfer authority for certifying CCRCs by replacing the definition of “Commissioner” with “Secretary,” to mean the Secretary for Aging and Disability Services (Secretary), in insurance uniform policy provisions statute regarding CCRCs. The bill would also replace “Commissioner” with “Secretary” to clarify in the continuing law that the Secretary would:

- Prescribe an annual disclosure statement for CCRC providers to complete;
- Accept annual disclosure statements filed by CCRC providers, continuing care contracts, and annual audits certified by a certified public accountant;
- Accept copies of continuing care contract forms entered into between the provider and any resident and associated required documents;
- Issue certificates of registration for CCRC providers;
- Prescribe and accept applications for CCRC certificates of registration; and
- Renew certificates of registration with appropriate notification and payment of the continuation fee, unless the Secretary determines that the CCRC is not in compliance with statute.

The bill would specify that CCRC providers would be required to file annual disclosure statements, continuing care contracts, and annual audits within four months of completion of such provider’s fiscal year. The bill would also require the Secretary to renew certificates of registration for CCRCs in compliance with requirements within four months of completion of such provider’s fiscal year..

The bill would also provide the Secretary the ability to adopt any rules and regulations necessary to carry out CCRC oversight.

## **Background**

The bill was introduced by the House Committee on Health and Human Services at the request of Representative Landwehr.

### ***House Committee on Health and Human Services***

In the House Committee hearing, **proponent** testimony was provided by representatives of the Department and the Kansas Medicaid Inspector General, who generally stated the Department's role with CCRCs is limited to registration and annual renewal, and these functions would be more appropriately handled by KDADS, who already manages quality care assessments, Quality Care Assessment Tax determinations, and other aspects of the management of CCRCs.

**Opponent** testimony was provided by representatives of Kansas Health Care Association and Kansas Center for Assisted Living and LeadingAge Kansas. Opponents stated they were not opposed to moving oversight of CCRCs from the Department to KDADS, but expressed some concern about the definition of CCRC included in the bill.

Written-only opponent testimony was provided by representatives of Kansas Adult Care Executives and Kansas Hospital Association.

Neutral testimony was provided by a representative of KDADS.

The House Committee amended the bill to:

- Remove CCRC from the definition of “adult care home” in law regarding adult care homes;
- Clarify the definition of CCRC in law regarding adult care homes;
- Clarify that “place or facility” includes multiple buildings;
- Clarify the definition of “continuing care” in the bill;
- State that if certification is not issued or renewed, the provider would be able to appeal the decision in accordance with the Kansas Administrative Procedure Act, and judicial review would be in accordance with the Kansas Judicial Review Act;
- Remove Section 9 of the bill regarding the Quality Care Assessment Tax.

#### ***Senate Committee on Public Health and Welfare***

In the Senate Committee hearing, **proponent** testimony was provided by representatives of KDADS and the Department. The Department representative stated the agency’s authority is limited to the registration and annual renewal of certificates of registration of CCRCs and, given the substantial authority of KDADS over such facilities, the registration and renewal authority would best reside with KDADS. The KDADS representative stated the agency supports the bill with the amendments made by the House Committee.

Written-only proponent testimony was provided by Representative Landwehr.

Neutral testimony was provided by a representative of LeadingAge Kansas, who stated support for tightening loopholes in CCCR statutes and better ensuring the integrity and efficacy of the nursing home bed tax program, but

requested amendments be made to add “home plus” to the list of care settings in the definition of a CCCR and restore the current statutory language on fiscal year reporting.

No other testimony was provided.

The Senate Committee amended the bill to:

- Add “home plus” to the list of CCRCs;
- Restore the current statutory language regarding the due date of a CCRC’s fiscal year reporting; and
- Replace the requirement that the Secretary renew a certificate of registration as a continuing care provider on or before April 1 of the current calendar year with renewal if the Secretary determines that the continuing care provider is in compliance with requirements within four months of completion of such provider’s fiscal year.

### **Fiscal Information**

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, KDADS states that enactment of the bill would adjust the current provider assessment rates, and the agency estimates additional Quality Care Services Fee Fund revenue of \$17.5 million annually. The bill would increase the nursing facility provider assessment rate for approximately 265 facilities and lower it for approximately 60 facilities. This could result in an additional offset and reduction of State General Fund (SGF) expenditures as part of the Human Services Consensus Caseload for the Nursing Facility Medicaid program. This impact assumes Centers for Medicare and Medicaid Services (CMS) approval of the provider tax rate methodology.

KDADS estimates that enactment of the bill would increase agency expenditures by \$650,000 from the SGF for

FY 2025 and beyond. The agency states that it would require hiring 6.00 new FTE (full-time equivalent) positions to take on the additional responsibilities and two cars for surveyors. The positions would include 2.00 FTE Surveyor positions, 1.00 FTE Program Consultant position, 1.00 FTE Program Manager position, 1.00 FTE Licensure and Enforcement Specialist position, and 1.00 FTE Hotline Intake Specialist position.

With the provider assessment rates in the bill and current assessment parameters, it does not appear that KDADS would be in compliance with the CMS parameters. In the event CMS does not approve the rates and assessment methodology as noted in the bill, there would be a loss of revenue of approximately \$25.5 million to maintain current nursing facility rates and service funding, which would be offset by an increase of SGF expenditures.

The Kansas Commission on Veterans Affairs Office indicates that enactment of the bill would not have a fiscal effect on the agency.

The Department indicates there are approximately 137 CCRC facilities currently registered with the Department. The annual renewal fee is \$25. Assuming all continue to be registered, enactment of the bill would decrease fee revenue by \$3,425 annually. Any fiscal effect associated with the bill is not reflected in *The FY 2025 Governor's Budget Report*.

Adult care homes; continuing care retirement communities; certification; Kansas Insurance Department; Kansas Department for Aging and Disability Services