

Advocacy in Action

March 31, 2020

KABC is actively advocating with the federal and state governments regarding the well being of older adults using long-term care at home and in residential care settings such as nursing homes and assisted living. To learn more go to [**CoronaVirus Crisis Campaign**](#)

The second half of the 2020 Kansas legislature was compressed from its usual month-long session to about a week. With the onset of the COVID-19 virus and concerns about social distancing grew, there was an urgency to finish the work of the regular session ahead of the April 3 deadline for first adjournment. The legislature adjourned on March 19, 2020.

Early in March the legislature returned from its first turn-around break, it began preparing for an early adjournment by focusing its work on priority legislation that had to be accomplished: passage of a base budget that allowed agencies to continue to operate into the next State fiscal year starting July 1, and respond to the COVID-19 crisis; and provide for emergency powers for the State Board of Education, the Chief Justice of the Kansas Supreme Court, and the Governor; and finally, provisions for the legislative adjournment resolution.

At this time, the legislature is scheduled to return April 27 according to the calendar with final adjournment Sine Die scheduled for May 21. The adjournment resolution also includes provisions giving additional time for certain bills to be considered if the legislature returns on time and creates provisions for the real possibility that COVID-19 may prevent the legislature from reconvening.

Since 2020 is the second year of the Kansas legislative biennium process, bills that aren't passed this year will not carryover to next year. Since the return of the legislature is uncertain it is unlikely that there will be further action on bills we support this session.

KABC has been laying groundwork on a number of issues despite obstacles presented by the legislative stand-off and corona virus concerns. We are working with legislators to advance legislation ranging from strengthening safety standards and training for nursing home staff who care for persons with dementia to protecting the civil rights of older adults.

The following is a list and the status of the legislation that KABC has been involved with during the 2020 session.

Bills and Legislation -- KABC asked for the introduction of a bill that would require 12 hours of **dementia training** for employees of adult care homes ([SB 450](#)). The proposal would apply to employees who are licensed by the State Board of Healing Arts, the Board Nursing or the Behavioral Sciences Regulatory Board. The bill also requires new employees to successfully complete four hours of dementia care training within the first 30 days of employment. The bill was not heard in the Senate Committee on Public Health and Welfare. It is dead.

In 2019, KABC introduced a bill to delete language that limits the ability of residents and their families to hold abusers accountable for harming residents in nursing facilities. [HB 2229](#) would

delete the prohibition on the use **electronic monitoring recordings** in civil, criminal or administrative proceedings if certain conditions were not met. The current law, passed in 2018, created a higher bar under the Kansas Rules of Evidence than those made in other public or private settings.

The bill carried over into 2020 and was heard in the House Committee on Children & Seniors. It was supported by the Office of the Attorney General, AARP, the Alzheimer's Association, the Disability Rights Center of Kansas and the Long Term Care Ombudsman. The two nursing home associations opposed the bill. The bill was brought back for further consideration and re-referred to the House Judiciary Committee because of the legal nature of the issue. Because of the early adjournment the March 19 hearing in House Judiciary was canceled and the bill is dead.

KABC also worked with legislators to draft legislation **establishing the right to appeal an involuntary discharge from an assisted living facility** ([SB 451](#)). This bill would correct a gap in the consumer rights of residents. The bill was referred to the Senate Public Health & Welfare Committee but not heard. It died at turn-around.

Earlier in the session, KABC asked the Senate Ways & Means Committee to retain oversight of the **nursing homes quality care assessment also known as "bed tax"** ([SB 409](#)). The reauthorization of the annual nursing home assessment statute was necessary this year to continue the assessment. Since 2011, nursing homes have been assessed a bed tax by the State which allows them to draw down additional federal matching funds. The original legislation called for the assessment to periodically sunset requiring legislative oversight. This year was the five-year sunset and the nursing home industry asked that the sunset provision be removed making the assessment permanent.

In her testimony to the committee, KABC Executive Director Mitzi McFatrach asked the committee to adopt the recommendation of the Quality Care Improvement Panel to extend the sunset to 2025 and to assign the 35% enriched match money to fund one or more measurable, improvement outcomes to improve resident care.

The committee's amendment to add a 10-year sunset were included in the final version of the bill which was folded into [HB 2168](#). HB 2168 sets a sunset date of July 1, 2030 for the assessment and passed both chambers. It has been signed by Gov. Kelly.

Another carry-over bill was [HB 2343](#), also introduced by KABC in 2019. This bill would **prohibit nursing homes from employing** direct care **staff** provisionally for 60 days **without a completed background check**. This puts nursing home residents at risk without notification that they are being cared for by a person who has not had a cleared background check. When the House Committee on Children & Seniors did not hear the bill, KABC asked for introduction of the same bill in the Senate, [SB 313](#). It was not heard by the Senate Judiciary Committee. Both bills are dead.

Dementia Report – Gov. Kelly's Kansas Alzheimer's Disease Task Force made a number of recommendations when it submitted its report to the legislature in January. KABC joined the

Alzheimer's Association and other advocates in supporting recommendations outlined in the [2020 Kansas Alzheimer's Disease Plan](#).

One of the task force's recommendations was the creation of a two-year state Alzheimer's Disease Advisory Council ([HB 2347](#)), with the option to renew the council twice. KABC supports the creation of this advisory council, but the bill was never heard by the House Children & Seniors Committee and is now dead.

The Budget – Gov. Kelly made no veto changes to [SB 66](#), the base budget bill passed by the legislature before it adjourned. The governor's budget had included funding for Medicaid expansion, should it have received legislative approval. The legislature did not take action on expansion before adjourning so there were some adjustments made to the governor's budget in the event the legislature did not return and/or did not pass an expansion bill. Additional funds were appropriated for responding to the COVID-19 pandemic.

Among the provisions included in the budgets for the remainder of State Fiscal Year 2020 and 2021 were:

Adjustments to **FY 2020** budget:

- Add \$50 million from SGF for the Coronavirus response to be released by the Legislative Coordinating Council following submission by the Budget Director and reviewed by the Joint Legislative Budget Committee in FY 2020
- Add \$15 million from SGF to the Ks Division of Emergency Management in FY 2020 for the State's response to the Coronavirus.
- Add language for FY 2020 to allow DCF to request a waiver for time-limited assistance provisions under food assistance provisions for able-bodied adults ages 18-49 without dependents in the household if the Secretary can establish insufficient jobs in an area using standards not less restrictive than standards in federal regulations in effect Jan. 1, 2020.

FY 2021

Kansas Department for Aging and Disability Services –

- Add \$22.1 million, including \$9.0 million from the State General Fund, to provide a 5% increase in the provider reimbursement rates for the Medicaid Home and Community Based Services Intellectual/Developmental Disability waiver for FY 2021.
- Add \$6.6 million, including \$2.7 million from the State General Fund, to provide a 1% increase in the Medicaid reimbursement rate for nursing facilities for FY 2021.
- Add \$6.4 million, including \$2.6 million from the State General Fund, for the Medicaid Home and Community Based Services Technology Assisted (TA) waiver for FY 2021. Add language directing this funding to be used to increase the provider reimbursement rates for the Specialized Medical Care (T1000) services code from the current rate of \$31.55 per hour to \$37.00 per hour for in-home Medicaid Care Registered Nurse/Licensed Practical Nurse nursing services for this waiver.
- Add \$3.0 million, all from the State General Fund, for Senior Care Act services for FY 2021.

- Add \$2.0 million, all from the State General Fund, to increase grant funding for Community Mental Health Centers for FY 2021.

Kansas Department of Health and Environment/Health -

- Add \$3.0 million, including \$1.2 million from the State General Fund, to increase Medicaid dental reimbursement rates under KanCare for FY 2021.
- Add language prohibiting the expansion of the Kansas Medicaid program without express consent of the Legislature.
- Add language transferring the \$17.5 million allocated for Medicaid expansion to the Coronavirus Prevention Fund of the State Finance Council if Medicaid expansion is not passed into law.