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LeadingAge Kansas COVID-19 Weekly Update July 9, 2021

www.leadingagekansas.org/covid19



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State Update

- Still no approval from CMS on \$15/day funding. CMS came back with a question about Nursing Facilities for Mental Health, KDADS hopes that means we will hear soon.
- Meeting today of Joint Committee on Administrative Rules and Regulations. Discussion of Kansas Board of Cosmetology claim that all adult care homes and hospitals must have licensed salons. We are presenting testimony in opposition on behalf of the three long term care associations. **Testimony available in handouts.**

LeadingAge National Update

- **Member Briefing: New Polling Data Shows Overwhelming Support for Investment in Older Adults**

July 15, Noon CT briefing to learn more details and how you can share this info. [Register for the webinar](#) and [read more about the poll's findings](#).

- **How Can We Address Vaccine Hesitancy?**

Check out [this 19-minute QuickCast](#) that provides a deeper understanding of what influences vaccine hesitancy and provides concrete strategies for addressing the most common concerns. Free.

LeadingAge Kansas Update

LeadingAge Kansas Member Questionnaire on Financial, Census & Workforce Status

- Please take the survey now at <https://www.surveymonkey.com/r/MRGZCFH>. The survey closes July 16th.

Poll

What percentage of your staff is vaccinated?

Less than 50%

51-79%

80%+

Upcoming Presenter

Kerry McCue – Healthcare Coalition Partners of Kansas Friday July 16th on the LeadingAge Kansas Weekly Webinar.

In early August of 2020, the Kansas Department of Health & Environment (KDHE) contracted with Healthcare Coalition Partners of Kansas (HCCP of Ks) to evaluate transitioning patients/residents from Acute Care facilities (hospitals in Kansas) to Post-Acute Care facilities (any setting in Kansas where a patient/resident would receive additional medical care after discharge from a hospital) and to make recommendations that could help resolve the identified difficulties. We will discuss the project process and progress.

**Have specific questions you would like them to answers – Let us know. Send them to
Nicole@leadingagekansas.org**

Save the Date – Virtual Roundtables

Legislators will be invited to join the roundtables to hear from you and respond about your biggest concerns.

- Tuesday, August 3rd; 1:00 – 2:30 PM – South Central Kansas
- Wednesday, August 4th; 1:00 – 2:30 PM – Southwest Kansas
- Thursday, August 5th; 1:00 – 2:30 PM – Northwest Kansas
- Friday, August 6th; 1:00 – 2:30 PM – North Central & Northeast Kansas
- Monday, August 9th; 1:00 – 2:00 PM – Everyone is invited for a wrap-up and final thoughts regarding the legislative discussions

Watch for registration info soon.

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Upcoming Webinar

Medicaid NF Rates Calculation and Strategies - 2 Part Webinar

Tuesday, July 20 | 10:00 – 11:00 AM

Tuesday, July 27 | 10:00 – 11:00 AM

Dave Halferty, Myers & Stauffer | Session 1

Bob Dick, Bland & Associates | Session 2

Have specific questions you would like them to answers – Let us know. Send them to Nicole@leadingagekansas.org

[Register Here](#)

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Upcoming Webinar

HCBS Final Setting Rules – Presentation with Q&A

Thursday, August 12 | 1:00 – 2:30 PM

Russell Bowles, BSOE – ICF-IID Program Manager, KDADS

Colin Rork – HCBS Program Integrity Manager

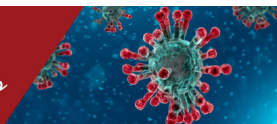
LaTonia Wright, HCBS Project Manager, KDADS

Have specific questions you would like them to answer – Let us know – send to Nicole@leadingagekansas.org

[Register Here](#)

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COVID-19
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Don't Miss Today's Environmental Services/Maintenance Learning Group

RSVP with participant name, title and organization to Hayley hayley@leadingagekansas.org to receive the meeting link.

TODAY Friday, July 9 | 1:00 – 3:00 PM

Agenda:

- Introductions/Get to Know Each Other
- Topic Selection
- Open Discussion

This will be an open and safe place to discuss and learn from each other.

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Fall Conference Oct 19th-20th | Salina

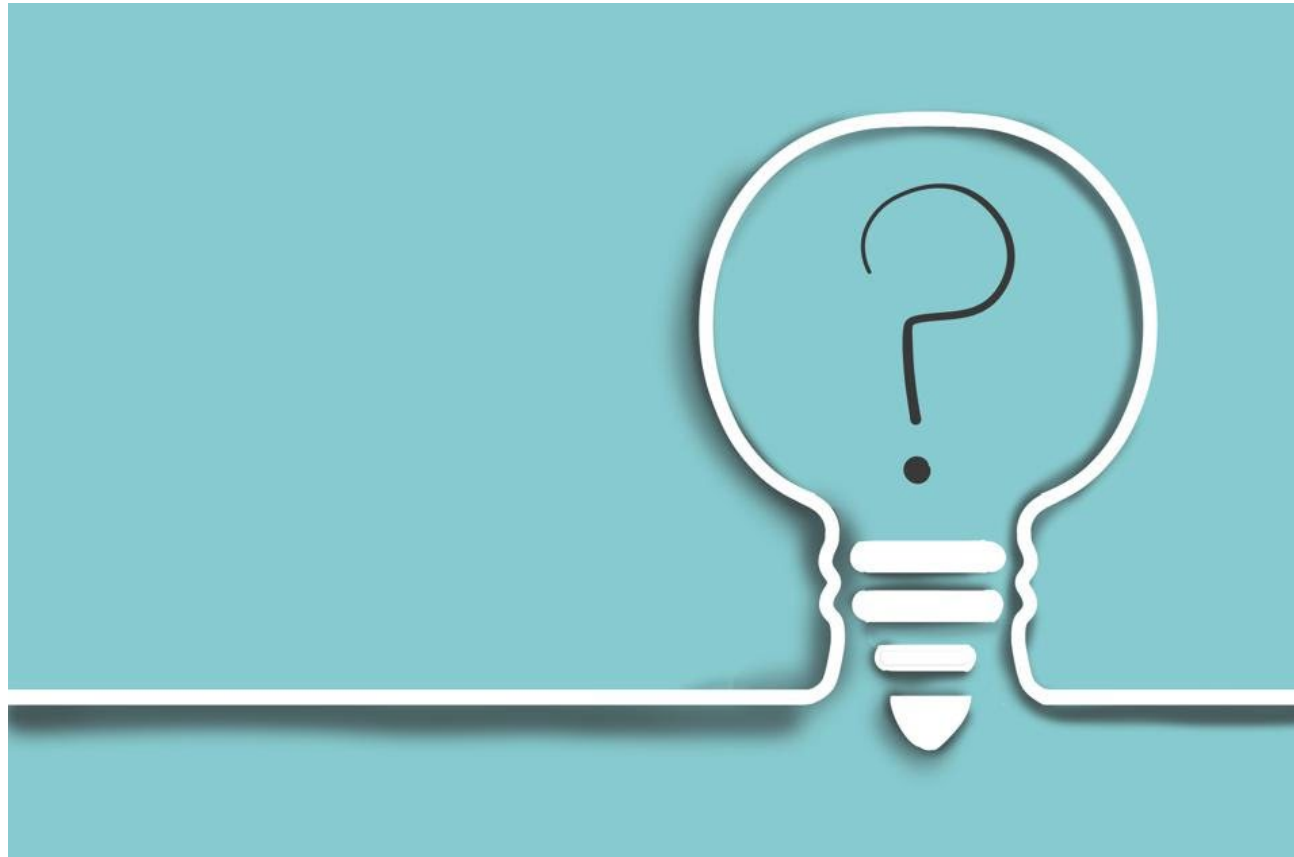
Sneak Peak:

- Policy & Advocacy
- Workforce: Recruitment, Retention, etc.
- Misc Topics: Financial, HR, etc.
- Focus for nurses
- Fun networking activities
- Time with exhibitors

Topics are subject to change.

We are still open to your thoughts, topics, speakers, exhibitors and session formats. Please email hayley@leadingagekansas.org and nicole@leadingagekansas.org to provide your input.





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Apply today!



Applications Due **August 1st**

leadingagekansas.org/scholarship



To: Chairwoman Barbara Wasinger, and Members, Joint Committee on Administrative Rules and Regulations

From: Rachel Monger, Vice President of Government Affairs, LeadingAge Kansas
Linda MowBray, President/CEO, Kansas Health Care Association
Bill Tofflemire, Executive Director, Kansas Adult Care Executives

Date: July 9, 2021

Testimony In Opposition to the Repeal of K.A.R. 69-6-3 and Salon Licensing in Adult Care Homes

LeadingAge Kansas, the Kansas Health Care Association and Kansas Adult Care Executives are the state associations representing nearly all long term care providers in Kansas. Our members care for more than 45,000 older Kansans and employ just as many workers across the state.

We are writing to the Committee to express our concerns with the repeal of K.A.R. 69-6-3 by the Kansas Board of Cosmetology, and to provide information on how it effects the provision of cosmetology services to residents of adult care homes.

We ask that the Kansas Board of Cosmetology not repeal K.A.R. 69-6-3 at this time.

History of Salon Licensing Issue and Its Application to Adult Care Home Settings

The issue of whether an adult care home must have a professionally licensed salon to provide hair care to residents seems to date back almost 50 years. The statutes and regulations governing this issue span four different agencies – the Kansas Department for Aging and Disability Services, the Kansas Department of Health and Environment, the Kansas Board of Cosmetology, and the Kansas Board of Barbering. As a matter of practice, the only set of requirements that have been applied and enforced for adult care homes are those found in KDADS regulations and adult care home statutes. Specifically:

- **K.A.R. 26-40-301(g)(4)(A)-(B); K.A.R. 26-40-303(i); K.A.R. 26-40-303(f)(A)-(B); K.A.R. 26-40-303(j)(Table 1a and Table 2a); K.A.R. 28-39-161; and Federal CFR 483.30**
 - These regulations require a nursing home to establish a room labeled as a “beauty and barber shop” to provide a space for resident hair care. The room must have specific equipment and workspaces, and must meet specific physical environment requirements regarding sinks, plumbing and ventilation. It must also conform with the same sanitation and health care infection control requirements applicable to the rest of the building. KDADS inspects and enforces beauty parlor regulations as a normal part of the annual inspection. While not specified in regulation, it is universal practice that facilities contract with licensed cosmetologists to provide services to residents. These licensed

cosmetologists have their own set of infection control and sanitary standards enforced by the Board of Cosmetology.

- **K.S.A. 39-938 In which the Kansas legislature makes clear that Board of Cosmetology and Board of Barbering regulations do not apply to adult care homes:**

Adult care homes shall comply with all the lawfully established requirements and rules and regulations of the secretary for aging and disability services and the state fire marshal, and any other agency of government so far as pertinent and applicable to adult care homes, their buildings, operators, staffs, facilities, maintenance, operation, conduct, and the care and treatment of residents. The administrative rules and regulations of the state board of cosmetology and of the Kansas board of barbering shall not apply to adult care homes.

- **K.A.R. 69-6-3 Adult care homes have also used this as an extra reference for the salon issue.** The soon-to-be-repealed Board of Cosmetology regulation states that cosmetologists must work in a licensed salon unless they are providing services in a nursing home, hospital or in the home of an “invalid.”

Do adult care homes have licensed salons?

In general, the answer is no. When we speak to our nursing home and assisted living providers, they state that they have a beauty/barber parlor as required by KDADS and contract with a licensed cosmetologist to provide services to residents. The exception to non-licensing seems to be at retirement communities who have opted for licensed salons on their campus to serve both adult care home residents and independent living residents.

Why Licensed Salons Should Not Be Required in Adult Care Homes

We have not been informed of any major issues or harm resulting from beauty and barber services provided in an adult care home. These services have been safely and successfully provided in the same way, in the same rooms and under the same standards for decades. We do have many concerns about the negative effect salon licensing will have on our providers and residents. These concerns revolve around the high cost of unnecessary regulation and the even higher cost of government intrusion into resident choices and services.

The Costs of Unnecessary Regulation

Adult care home resources are stretched to the limit. Their resources must go to resident care, not to the compliance costs and penalties of unnecessary and duplicative regulations. If forced to create a licensed salon in their building, an adult care home would also be forced to follow a triple set of regulations from KDADS, KDHE and the Kansas Board of Cosmetology. They will also have double inspections and perhaps even double penalties for failing to follow one of the three sets of regulatory rules. It is unfair and unnecessary.

Salon licensing will also be a huge cost to providers when it comes to physical environment changes. They will not only bear the normal costs of construction, but also the extra labor costs required by the multi-agency regulatory process accompanying any physical environment changes in an adult care

home. Every building is unique, and there are any number of ways our providers will need to change their beauty rooms and beauty services to meet salon licensing requirements. An obvious example is smaller resident units who are allowed by KDADS to share their beauty parlor space with resident bathing facilities, as long as those two activities do not interfere with each other. This would no longer be allowed under salon licensing rules. The Board of Cosmetology has confirmed that either a new room must be constructed, or a separation barrier must be built between the two areas. We cannot stress enough that adult care homes do not have the resources to waste on changing beauty parlors that have been serving residents well for decades.

The Cost of Government Intrusion for Residents

Forcing adult care home beauty parlors into licensed salons will have a material impact on the lives of our residents. Salon licensing will affect resident choices and services in many ways by forcing providers to severely limit access to the beauty parlor in order to avoid steep fines from the Board of Cosmetology.

There are many uses for the beauty parlor space and equipment outside of the regularly scheduled licensed cosmetology services brought in by the adult care home.

Here are just a few examples:

- Families use the beauty parlor to cut and care for their loved one's hair
- Residents bring in their own licensed cosmetologist to care for their hair
- Staff use the shampoo sinks for residents with bathing challenges
- Podiatrists use the salon chairs as an ideal way to perform care on residents

While salon regulations may not explicitly prohibit these activities, the Board of Cosmetology has confirmed that if any of these uses do not comply with every regulation, the adult care home will be on the hook for thousands of dollars in fines. The worst fear is that the Board of Cosmetology will try to discipline an adult care home by prohibiting them from providing any cosmetology services at all for residents. To avoid these very serious consequences, many adult care homes will have to shut down access to the beauty parlor to anyone but their contracted cosmetologist.

While always a concern, the COVID-19 pandemic has made us hyper-aware of the ways that government agencies can intrude into the daily lives of our residents. Salon licensing unnecessarily limits basic choices and freedoms of our residents, and unnecessarily robs them of access to services and equipment that better their lives. While some government intrusions can be justified, *unnecessary* government intrusion must not be tolerated.

We Ask that K.A.R. 69-6-3 Not Be Repealed at This Time

Today we are asking that K.A.R. 69-6-3 not be repealed by the Board of Cosmetology. Revoking the regulation will create confusion around whether a licensed cosmetologist can provide services in a KDADS approved facility. If the Kansas Board of Cosmetology wishes to update the regulation with more modern terminology, they can revise the regulation while maintaining the ability of licensed cosmetologists to provide services in adult care homes.

We greatly appreciate your time and look forward to any future work on this issue.