

Senior Care Task Force: WGA – Quality of Care and Protective Services

Recommendation Development: Safeguards to Prevent from Abuse, Neglect, and Exploitation of Seniors in Kansas

Feb 22, 2022
9:00am-10:30am
WebEx

Facilitator: Hina Shah - KHI

Note taker: KHI

Attendees: **Working Group Members:** Bill Persinger, Valeo Behavioral Health; Rachel Pirner, Triplett Woolf Garretson, LLC; Camille Russell, Long-Term Care Ombudsman; Ernest Kutzley, AARP; Tracy Davies, Washburn University; Chrisy Khatib, DCF; Jan Kimbrell, Silver Haired Legislature; Mitzi McFatrach, Kansas Advocates for Better Care; Roger Barnhart, Licensed Long Term Care Services Administrator

Subject Matter Experts: Lacey Hunter & Stephanie Volle, KDADS

KHI Staff: Hina Shah, Emma Uridge

Reviewed Documents

- Agenda
- Linda Davies - Kansas State Board of Nursing Case Investigation Presentation
- Google Jamboard SWOT Matrix (Strengths, Weaknesses, Opportunities, Threats)

Agenda:

9:00AM	Welcome and Introductions
9:10AM	Recommendation Development <ul style="list-style-type: none">• <i>Lacey Hunter, Commissioner Survey Certification Credentialing at KDADS</i>• <i>Stephanie Volle, Legal Division Manager at KDADS</i>• <i>SWOT Matrix via Google Jamboard</i>
9:50AM	Preview Next Topic
10:25AM	Administrative Updates and Next Steps
10:30AM	Adjourn

Minutes

Agenda item: Introductions / Opening Remarks / Review Agenda

Discussion:

- Hina Shah provided a review of the agenda and outlined working group roles
 - Ground Rules Reviewed
 - Come ready to discuss and compromise.
 - Keep remarks succinct and on topic.
 - Don't hesitate to ask clarifying questions.
 - Start and end on time.
- Group Introductions and Prompt:
 - "What do you want to keep front of mind when developing these recommendations and to keep them actionable?"
- Vision Statement:
 - "Older Kansans will have access and the ability to choose and receive high-quality, person-centered services wherever they reside."

Agenda item: Recommendation Development

Discussion: Lacey Hunter, Commissioner of Survey Certification Credentialing, KDADS

Presented on:

Overview of the Nurse Aide Registry

- Maintaining and updating the Nurse Aide Registry
- Investigation Process for Adult Care Homes
 - If complaint is confirmed with just cause for individual responsible, facility is cited for deficient practice.
 - Information given to KDADS legal department for the investigation on the accused individual.
 - When individual is put on registry they are served and given chance to appeal. If they are appealing, they will not be put on the registry.
- Request for information: How many actions were taken against CNAs this past year?
- Request for information: What is the average length of time for nurse aides with pending accusations who go work at other facilities?
 - Information will be gathered from KDADS legal department.
 - Timeline of investigation determined by severity of case.
- What does KDADS take against nurses when the board of nursing dictates those individuals?
 - No authority on nurses. Facility is cited for deficient practice. RN is cited to Board of Nursing.
- When approving an individual as a CNA, will KDADS check the APS registry?
 - KDADS does not prohibit someone from getting certification.
 - Before they work in facility, they have background check and then the registry is looked at.
- How do standards vary between KDADS and DCF findings that would add someone to each registry?
- Are registries consolidated to substantiate to identify bad actor?
 - DCF registry (APS) is intended for individuals not in adult care home
 - CNA registry (KDADS) is a function and capacity within adult care homes by statute and licensure.

Survey process for complaints

- 2 segments of surveyors.
 - 62 surveyors for federal licensed facilities
 - 7 surveyors for state licensed only, potential recommendation could be to increase number of positions

Licensure

- KDADS has authority over Home and Community Based Services and Licensure for I/DD providers for shared living, but KDADS don't do investigations, that is done by APS?

- DCF registry (APS), for individuals, not the adult care home
- CNA registry is a function and capacity within adult care home by statute and licensure.
 - Individual is not cited, facility is cited.

Health Occupation Credentialing

- Ernest Kutzley, AARP: Can you provide an update on law enforcement collaboration and finger printing pilot program?
 - 2018 bill: KanCheck, national fingerprint background check.
 - Existing program is run through Kansas Bureau of Investigation (KBI) in the Topeka office by appointment only.
 - 5,000 - 6,000 background checks monthly. Not feasible to make all those appointments to Topeka fingerprint office.
 - Livescan fingerprint machines would be needed throughout the state, not just in law enforcement agencies.
 - Some people don't want to go to law enforcement agencies.
 - Oklahoma has passed similar bills. To implement this, what do you need to get this up and running?
 - Partners at KBI to work with local sheriff offices.
 - More places to complete fingerprints. They must be open to the public to get background checks done.
 - We need a payment and billing mechanism to complete fingerprints at law enforcement offices.
 - KDADS gets money for each background check completed. Problem is that facilities will pay for individual background check, not the individual.

Agenda item: SWOT Matrix via Google Jamboard

Opportunity - Strength (OS) Strategies	
1	Provide adequate funding and resources to perform KBI background checks in a timely manner.
2	I would like to see an integration of these various registries for the consumer to be able to go to one spot to get history. I can't imagine that most consumers or Courts for that matter know about all of these registries.
3	Review and provide avenues for information sharing with public and agencies and between agencies that better safeguard long term care users.
4	Prohibit direct resident care until background check results are available.
5	Prevention Campaign for Older Adults for Financial Crime, includes POA, DPOA etc.
6	increase public awareness through training.
7	Provide consistent funding for investigations to continue beyond the cursory level
8	Statewide Assessment of Needs for Older Adults in the State of Kansas using data from multiple systems such as DCF, KDADS, Hospitals, Ombudsman's Office
9	Increased ANE education ...public, law enforcement, all stakeholders
10	Use the strength of APS workers to look at their doing identified ANE investigations in adult care homes
Opportunity - Weakness (OW) Strategies	
11	Provide funding for the background checks by employers that is not passed on to the prospective employee
12	Greater accessibility to DCF registrations, perhaps education as to the process to the end consumer for services.
13	Longer term policy that allows person to remain in the same environment and bring services to them instead of having to move from one facility or room to another - especially concerning for dementia and for social networks
14	Enhance safeguards and oversight of guardians/conservators and paid family caregivers.
15	Education training law enforcement, guardians, provider public. Person Centered Practices as a way to prevent and identify abuse neglect and exploitation and ensure human rights.
16	Coordination of enforcement agencies
17	Creating more supports and education for caregivers to include mental health supports.
Threat - Strength (TS) Strategies:	
18	Work with the banking institutions and financial investment firms for a Kansas specific campaign for preventing financial crimes. Targeted campaign when individuals turn 70.
19	CMHC's having geriatric mental health specialists to support older adults when they experience ANE, face isolation and overcome shame of being abuse.
Threat - Weakness (TW) Strategies	
20	Establish a Coordinator position between the three agencies that the facilities can contact or the family when questions about appropriate hire may be in question.
21	Supporting billing codes for in-home case-management and other supports for seniors.
22	Support efforts to enhance internet availability. Make it be available in congregate settings... like land lines were.
23	Fragmentation of data on potential bad actors and accessibility to that data--integration of data and open up accessibility.
24	Research how other states use public registries.
25	Improve opportunities for activities and systems of care delivery for elders in care settings to help reduce isolation and reactive behavioral changes.

Agenda item: Preview Next Topic

Discussion:

Next Topic: Discussion on adult care home surveys and fines

- Stephanie Volle: Gave information on [Statute 39-1411 \(d\)](#): Recommendation and findings from investigations are hidden and are closed records.
 - If there is a recommendation to revise or modify statute, there will not be many that would allow this.
 - Many phone calls are received regarding abuse, neglect, and exploitation.
 - Responding takes up 80% of the job.
 - Judge can make determination that need for information outweighs need for confidentiality
 - Purpose of the statute:
 - Keeps residents' information confidential.
 - Safeguards residents' identity.
 - Keeps everyone safe and within HIPAA.

Data Requests to KDADS:

- Aggregate data on number of complaints (or intake reports) made by facility staff versus residents. Of those, how many (or percentage) have a deficiency attached.
- Number of CNAs placed on the registry in the past year.

Identify Potential Supplemental Experts:

- Lacey Hunter and Stephanie Volle, KDADS
- Steve Anderson from the Medicaid and Fraud Division, Office of the Attorney General
- Camille Russell, Long-Term Care Ombudsman
- Kathy Greenlee - federal perspective
- Representative from Disability Rights Center of Kansas

Agenda item: Administrative Updates and Next Steps

Discussion:

- Next Meeting: March 8, 2022
- Next Topic: Discussion on adult care home surveys and fines

Strengths	Weaknesses	Opportunities	Threats
<ul style="list-style-type: none"> • State commitment and recent legislation increasing awareness and enforcement of financial abuse • Dedication of Adult Protective Services (APS) social workers • APS and Medicaid fraud control unit • Reviews of deficiencies and applications provided by membership group listservs from individuals (i.e., Linda Farrar) • Kansas Attorney General enhancements of abuse laws • Bank reporting and care home reporting of financial exploitation • Statutory increase in penalties for fiduciary abuse • Kansas guardianship program • Kansas law provides civil liability immunity to former employer who tells prospective employer that a person was being investigated for abuse, neglect, and exploitation. • Conservators and payees are important to our seniors, especially those who have a mental disability. We need more of these folks. 	<ul style="list-style-type: none"> • Lack of education and buy-in from some law enforcement • Direct care staff involved in cases may skirt penalties by “job hopping” • Lack of resources for investigation and prosecution, both monetary and substantive education • Absence of coordination with enforcement agencies. E.g., state/federal, department of labor/securities • Limited access to supportive services for persons who have been neglected or abused • Lack of local prosecution of perpetrators by county/district attorneys • Lack of timely publication of survey findings – or sometimes failure to place reports online. • Guardianship and conservatorship education • Can we expand the Kansas guardianship program? • Background checks for LTSS workers • Education • Serious allegations and deficiencies not showing up on the CMS nursing home compare website. • Issues with covid. There is a lot of trauma being experienced by seniors and caregivers. • Lack of timely investigation in some instances 	<ul style="list-style-type: none"> • Awareness of community on senior’s rights to choose and rights to not incur abuse, neglect, or exploitation • Law enforcement education • Educational in-service opportunities throughout the year from senior care resources (ombudsman; survey team members, etc.) • Support for family caregivers • Lack of timely investigation in some instances • Background checks before hire • Improved dementia care training • Education community, law, banks, seniors directly • Homes should have more accountability for protection of resident property. • The change in nursing staff so frequently is very unsettling in our dementia resident and the communications between staff re her care is not consistent 	<ul style="list-style-type: none"> • Greed • Growing social media issues • Lack of resources to help those truly in need. • Lack of ability to regulate unlicensed home health and family caregivers • Inability to connect to the internet in so many areas of the state reliably for the connections to out of area medical professionals and geriatric-psychiatry professionals • Belief systems; inheritance as a right • Isolation of potential victims and dependence of potential victims • Insufficient numbers of APS staff and resources in each community, esp. Rural. • Social isolation of elders in all settings can create more opportunities for those who would exploit neglect or abuse • Adversarial system • Older adults acquiesce to family “need” to financially exploit
<p style="text-align: center;">Key Themes</p> <ul style="list-style-type: none"> • State attention placed on adult protective services • Regulations and penalties - esp. those related to financial abuse • Dedication of social workers to recognize and report abuse • Guardianship program – pointed out as a strength and then opportunity to expand 	<p style="text-align: center;">Key Themes</p> <ul style="list-style-type: none"> • Lack of resources and coordination among sectors involved • Timeliness and availability of reports and survey findings (as well as timeliness of investigations) • Guardianship program – needs to be enhanced/expanded • 	<p style="text-align: center;">Key Themes</p> <ul style="list-style-type: none"> • Community awareness • Background checks • Improved dementia care training • Educational opportunities: staff in-service, law enforcement, banks, community, family caregivers 	<p style="text-align: center;">Key Themes</p> <ul style="list-style-type: none"> • Resources • Staff turnover • Unequal internet access • Social media • Unregulated providers • Adversarial systems • Belief systems/family relationships • Social isolation