

Kansas Advocates
for
Better Care

March 7, 2011

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Dear Chairman Owens and Members of the Senate Judiciary Committee

I here to testify today on behalf of the members, volunteers and Board of Directors of Kansas Advocates for Better Care. We are a citizen group whose mission for 35 years is to support public policies that will improve health and safety for frail elders and vulnerable adults who receive long-term care in nursing homes, assisted living and their own homes.

We respectfully oppose Sub for HB 2069.

We are not opposed to legislation that allows for statements of apology, and we support SB 142 which contains provisions introduced by the Judicial Council.

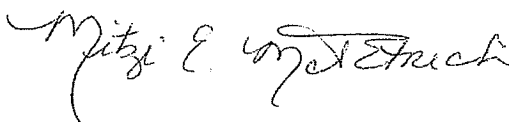
Adults living in long-term care settings rely on legislators and legislation; regulators and regulation to vigorously protect their health and safety. Many vulnerable adults do not possess the mental capacity or physical ability to advocate for their needs with health care providers, or other service providers. Many do not have family to advocate for them. For those who do have family, members are often consumed by providing care for a loved one or they live out of state, and they too rely on legislators to safeguard the interests of loved ones.

Reports of poor care, abuse, neglect and exploitation were confirmed in 132 adult care homes in the past year or about 39% of all nursing facilities. In the last year we've responded to residents and families who have called seeking help for serious concerns including sexual abuse by staff, being dropped by care staff and not receiving medical attention, being given prescription medications past their expiration date including insulin and psychotropic meds, among others.

Providing an apology is an important step in the healing process for persons who have suffered abuse or inadequate care, but it should not be exculpation for the person whose has accepted the responsibility and money to provide that care. A significant percentage of elders who are victimized by fraud or abuse die within 18 months. Depriving a person the opportunity to seek redress through the courts because an apology has been offered, including one that contains a statement of fault, is a further exposure of the vulnerabilities of frail adults. For a health care provider to be shielded from a lawsuit because s/he has offered an apology for error or wrong-doing is an over protection of health care workers at the expense of someone already harmed.

Sub for HB 2069 allows protection for statements related to intentional wrongdoing and gross negligence. Kansas Advocates for Better Care asks that you offer frail elders the protection that they deserve and that is contained in SB 142.

Thank you,



Senate Judiciary
3-7-11
Attachment 8