

Proponent Testimony on House Bill 2114
House Committee on Children and Seniors

Submitted by:

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January 28, 2021

Madam Chairwomen and members of the House Committee, thank you for allowing me the opportunity to offer proponent testimony on behalf of HB 2114 – establishing the Kansas senior care task force.

My name is Dustin Baker. I am an Advanced Practice Registered Nurse, Family Nurse Practitioner, and Nurse Educator. With over 20 years of diverse healthcare experience including serving our seniors. But most importantly, I am the grandson and power of attorney of Larry Barrett, a gentleman living with dementia. A chronic, debilitating impairment caused by changes in the brain that result in loss of memory, language, and problem-solving skills that interfere with daily living.

On October 5, 2020, my grandfather was sent by his long-term care facility, Richmond Healthcare, and Rehabilitation to Freedom Behavioral Health for dementia-related communication difficulties that were caused by his unmet needs. These challenging communication behaviors included but were not limited to agitation, aggression, and altered sleep pattern. They failed to assess the root causes for these challenges but rather demanded that he needed a psychiatric evaluation and antipsychotic medications.

A complaint was filed with the Kansas Department of Aging and Disability Services (KDADS) as it was expressed to me that Larry did not wish to go to Freedom. He only agreed to go to the facility when he was told they were going to pick up another resident. It was also expressed to me that he felt the facility did not treat him with respect, would walk up behind him and startle him, and would tell him what he was going to do. This only exacerbated his difficulties. These concerns were expressed to KDADS.

It was at Freedom that Larry developed a medical emergency requiring him to be transferred to The University of Kansas Health Systems – St. Francis campus for a low heart rate. On October 16th, the hospital determined that Larry was medically stable for discharge. However, the facility declined to accept him back, citing that he did not complete his psychiatric treatment. However, it was determined by the medical team at Freedom and St. Francis that Larry no longer warranted treatment as he was no longer exhibiting the same difficulties. The nursing home still demanded that he be transferred to another psychiatry hospital despite multiple medical professionals deeming it not

necessary. A second complaint was then filed with KDADS for their refusal to accept him back to his home.

A complaint survey was conducted on October 21st by KDADS. Citing the facility with two F-tag deficiencies. They identified that the facility failed to responsibly ensure open communication about the goal to discharge Larry with the receiving facility to ensure he had alternative placement when the facility issued a discharge notice, while in the hospital, without all required documentation, and without allowing him to return to the facility to appeal the discharge. The report goes on to reveal the facility failed to provide evidence of the inability to meet my grandfather's needs.

A plan of correct (POC) was completed by the facility and accepted by KDADS that did not include a remedy for which they were cited. It did not meet federal or state regulatory requirements. Nor did it allow my grandfather to return to his home. One of their corrections for immediate action included the Medical Director contacting the discharge planner at St. Francis on October 22 to inform her they were not able to meet his needs and to send a referral to Osawatomie State Hospital for which he did not medically need. I begged KDADS agency staff multiple times to not accept the POC as it did not meet those regulatory requirements. The State Ombudsman and Kansas Advocates for Better Care also made the same requests. However, our request went unanswered.

It took numerous phone calls, emails, and pleas with KDADS to receive the 2567b and POC that is supposed to be posted to the public website upon completion. On October 29th, I received a phone from the nursing home administrator notifying me they would not be accepting Larry back. Instead, they were issuing an Immediate or Less Than 30 Day Notice of Transfer or Discharge. Evicting my grandfather from his home to Freedom while he was still hospitalized at St. Francis. Just four days after his bed hold ran out.

I immediately filed an appeal with the Office of Administrative Hearing to appeal the eviction. Contacting KDADS to notify them that the notice that was issued did not meet the minimum state and federal regulatory requirements under 483.15 of the CMS State Operations Manual for Surveyors for Long Term Care Facilities. It was asserted the facility would receive a monetary fine and an enforcement letter if they did not readmit Larry to the next available bed. Based upon the available information as of today, it appears this never occurred.

As you can hear from my testimony a senior care task force is essential for the protection of seniors in Kansas. While I am strongly in favor of having a task force look at issues of adult care home surveys and fines, administration of antipsychotic medications to residents, and funding of the Kansas Senior Care Act, I do have concerns with the proposed membership in this bill.

Of the 20 proposed members, there is not one public consumer on the committee. While these representatives offer a diverse background of knowledge and expertise, they cannot speak to all of the senior's needs. No one can tell the senior's story better than they can or their representative.

That is why I ask the committee to consider approving this House Bill 2114 with the additional requirements of public members on the task force. This is a critical step to ensure that all parties are fairly represented, and the senior's needs are being adequately met. Once again, thank you for allowing me the opportunity to testify on behalf of this bill.

Thank you,

Dustin Baker

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