



**KANSAS
TRIAL LAWYERS
ASSOCIATION**

To: Rep. Fred Patton, Chairman
Members of the House Committee on Judiciary

From: Margaret Farley, Attorney at Law
On behalf of the Kansas Trial Lawyers Association

Date: Feb. 9, 2023

RE: Testimony in support of HB 2246 ("Charlie's Bill")

On behalf of the Kansas Trial Lawyers Association, I am pleased to appear in support of HB 2246 and I respectfully request that the committee recommend the bill favorable for passage.

KTLA members are attorneys that represent Kansans in cases involving personal injury, workers compensation, and consumer protection. KTLA members represent long term care residents and their families in cases involving residents' care.

Involuntary transfer or discharge can be physically and mentally devastating to frail Kansans living in residential care facilities. Right now, Kansans in such facilities and their families are at the mercy of facilities when faced with involuntary transfer or discharge.

We appreciate Rep. Titus' leadership in introducing HB 2246. We also appreciate the efforts of the members of the Kansas Judicial Council who reviewed current law and regulations at the request of Rep. Concannon.

The Judicial Council released its recommendations¹ in December, concluding that if the facility determined an involuntary or discharge requirements have been met, neither state regulations nor statutes outline a process for a resident to challenge the discharge. As a

¹ <https://www.kansasjudicialcouncil.org/Documents/Studies>

result, it drafted an appeal process for a standard 30-day notice of involuntary transfer or discharge. Recognizing there may be circumstances that require a quicker process, the Council also drafted an appeal process that applies in cases of emergency involuntary transfer.

HB 2246 reflects the processes outlined in the Council's recommendations, providing a reasonable process to protect Kansans living in assisted living facilities.

HB 2246 also closes a gap in Federal law. Federal law establishes an appeal process for challenging an involuntary transfer or discharge from any nursing facility that accepts Medicare or Medicaid. But the Federal law does not apply to facilities that do not receive that federal funding such as assisted living facilities, a residential healthcare facility, a home plus facility or a boarding care home. HB 2246 would establish an appeals processes for such facilities.

HB 2246 provides a strong framework for an appeals process that balances the residents' rights to due process and the health and safety of the residents and facility staff. The passage of HB 2246 assures that residential care facilities are following the law and that all Kansans in residential care facilities will have the protection of that law.

On behalf of the members of the Kansas Trial Lawyers Association, I respectfully request your support for HB 2246, and that the committee recommend the bill favorably for passage.