

Proponent Testimony on Senate Bill 191
Senate Committee on Public Health & Welfare

Submitted by:

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February 14, 2023

Ms. Chairwomen and members of the House Committee on Public Health & Welfare, thank you for allowing me the opportunity to offer proponent testimony on behalf of SB 191– concerning the adult care homes licensure act; related to involuntary transfer or discharge of residents from an adult residential care facility; creating a right to appeal an involuntary transfer or discharge; requiring the secretary for aging and disability services to review notices and preside over appeals.

My name is Dustin Baker, and I live in Ottawa, Kansas. I am Advanced Practice Registered Nurse, Family Nurse Practitioner, Nurse Educator, and senior advocate. With over 24 years of healthcare related experience to include skilled and assisted living communities.

This last summer I had the privilege of serving on the Advisory Committee on Adult Care Home Involuntary Discharge Appeals. We were tasked with studying if Kansas creates an appeal process for involuntary discharge of residents from assisted living, residential healthcare, and home plus facilities, what should be the procedure for that appeal process. We examined multiple states statutes and regulations on appeals from involuntary transfers and discharges.

In Kansas we have over 750 adult care homes with less than half of those certified to accept Medicare residents. Which means we have over half of those facilities residents who are currently not able to appeal their discharge notice should they receive one. Residents may receive an eviction notice for several reasons, such as the facilities inability to care the resident to lack of payment. I remember the day my grandfather was evicted from his nursing home.

It was October 5, 2020, when my grandfather, Larry was sent out by his long-term care facility to a psychiatric hospital for dementia related communication difficulties that resulted in him becoming verbally and physically aggressive when they were unable to understand his needs. He underwent a medical and psychiatric evaluation. When he was found to be medically stable to return the facility on October 16, 2020, the facility administrator declined to allow him to return to his home.

The States Ombudsman and I tried to work with the facility for more than a week to allow him to return to his home, and after his bed hold ran out, I received a call from the nursing home

administrator. He had called to inform me that they could not accept my grandfather back. He would be issuing a notice of discharge per guidance from the Kansas Department of Aging and Disability (KDADS). When asked where Larry was expected to go, I received no response from the administrator. I had to remind the facility of their state and federal obligation as cited in statute 42 U.S.C. Part 483.15 about an appropriate transfer or discharge. The director responded with “we can assist” with placement. The State Ombudsman was immediately notified.

I received the notice of Immediate or Less Than 30 Day Notice of Transfer or Discharge from the facility, discharging my grandfather to the care of a psychiatric hospital for which he was no longer a patient at. On October 30, 2020, I filed an appeal with the Kansas Offices of Administrative Hearing. A complaint was also filed with the KADADS Complaint Hotline that the discharge did not meet the state and federal minimum regulatory requirements for an involuntary discharge of a resident from a long-term care facility. A revised discharged letter was received 7 days later from the facility that still did not meet regulatory requirements of a safe discharge. The facility still failed to facilitate a safe discharge to facility of the patient’s choice. An additional complaint was filed with KDADS on November 6, 2020.

A preliminary hearing was held on December 11, 2020, to discuss the formal process. A formal hearing was not scheduled until January 11, 2020. However, three days before the formal hearing, the nursing facility agreed to allow Larry to return to his home. After more than 3 months of living in a hospital, subjected to a hospital acquired infection that almost cost him his life, he was able to return home.

I tell you this story because if it had not been for the state and federal law allowing my grandfather due process of appealing his discharge, who knows where he might have been transferred too. He might have ended up like other residents, disconnected from his family, friends, and the staff who cares for him. Or perhaps, one of the many horror stories, living in a hotel room, with family who could not care for him, homeless on the streets or dead.

As a nurse, provider, and family member, I strongly urge you to support SB 191. Our vulnerable residents in our adult care facilities need the same protections that were afford. No resident or family member deserves to suffer the negative emotional and physical effects that an involuntary discharge causes.

Once again, thank you for allowing me the opportunity to share a glimpse into my family’s story. If I can offer any additional insight or answer questions, do not hesitate to reach out.

Thank you,

Dustin Baker, MSN, APRN, NE, FNP-C