



Kansas Advocates
for
Better Care

Making Elder Care Better Since 1975

Founded in 1975 as *Kansans for Improvement of Nursing Homes* by concerned citizens like you.

February 3, 2015

Chairman King, and members of the Senate Judiciary Committee:

Thank you for the opportunity to appear before you today in support of SB 57. I am Mitzi McFatrach, executive director of Kansas Advocates for Better Care (KABC). KABC is a not-for-profit organization whose mission is to improve the quality of long-term care for elders in all settings ó nursing and assisted facilities and in-home. KABC was a participant in the Judicial Council's work group which considered and refined the issues and helped craft the recommendations which are contained in SB 57.

Yesterday morning as I prepared testimony for this hearing, I stopped to answer questions from a caller who believes that her neighbor's son, who is acting as Durable Power of Attorney, is not using her financial resources to provide the care and assistance this older woman needs, but rather is using his mother's resources to benefit himself. This kind of call comes repeatedly and is one that I wouldn't be surprised to hear that you too receive on a regular basis from constituents.

The frequency of inquiries about and substantiated complaints regarding the actions of the individual acting as durable power of attorney is the basis for the changes proposed in SB 57.

Kansas Advocates for Better Care supports the passage of SB 57.
Changes proposed in SB 57 and which provide for:

The person executing the DPOA - Notice and warning as to the scope of action authorized by the DPOA.

The person agreeing to serve as Attorney in Fact -

Notice, warning, and further clarifying statements regarding the responsibilities and requirements to the person assuming the duties under the Durable Power of Attorney;

Statement of criminal and civil penalties for not acting in the best interest of or according to the stated wishes of the person who executed the POA;

Notice of unlawfulness for intimidating or deceiving the principal to secure a POA;

A formalized acknowledgement of the responsibilities and requirements an individual assumes when she/he agrees to act as attorney in fact under a DPOA. The individual will read the "Notice to Person Accepting the Appointment as Attorney in Fact," and will sign and have notarized their agreement to serve as attorney in fact;

Assumes the responsibilities for maintaining adequate records to verify expenditures that benefit the principal and managing funds in the principal's best interest.

SB 57 offers additional knowledge, notice and protections to individuals who designate a POA and for individuals agreeing to serve under at DPOA. It will not eliminate unlawful acts, but will better inform older adults of the authority they are providing for, it will inform and put on notice individuals who agree to serve as attorney in fact, and it will offer law enforcement clear measures to better evaluate and pursue prosecution of wrong-doing.

On behalf of KABC members and volunteers,
Mitzi E. McFatrach, Executive Director

KABC advocates for and resource to older adults and family caregivers, and to policy makers by providing educational information and reporting quality performance issues. KABC's operations are supported by individual contributions from citizens, members, and volunteers across Kansas who support our mission of better elder care.