



To: Sen. Jeff King, and Members,  
Senate Judiciary Committee  
From: Rachel Monger, Director of Government Affairs  
Date: January 23, 2013

### **Testimony in Support of Senate Bill 19**

Thank you, Chairman King and Members of the Committee. I am Rachel Monger, the Director of Government Affairs for LeadingAge Kansas. Our 160 members include not-for-profit nursing homes, retirement communities, hospital long-term care units, assisted living and residential health care residences, homes plus, low income housing, licensed home health agencies and other community based service programs throughout Kansas.

LeadingAge Kansas wholeheartedly supports Senate Bill 19 in its amendment of the Mistreatment of a Dependent Adult Statute to strengthen prosecution of fiduciary abuse cases.

Failure of a resident to the pay the amount owed for their care often leads to the discovery that the resident's durable power of attorney (DPOA) has used up the elder's resources for their own pleasure and benefit. Our members have experienced a significant increase in the occurrence of this type of fiduciary abuse over the years, and have tried their best to sound the alarm on the need to address this very serious crime.

Victims of fiduciary abuse are often left destitute, in mental and emotional anguish, and in increased jeopardy because they cannot pay for necessary services to maintain their health and safety. Allowing vulnerable and medically fragile elders to be put in such a situation is intolerable.

Fiduciary abuse also effects every Kansas tax payer. Misuse of a DPOA impoverishes dependent adults, and increases the burden on our already struggling Medicaid program. Fiduciary abuse creates substantial losses that many adult care homes have no choice but to absorb. Those losses increase the cost to private pay residents, accelerate the impoverishment cycle, and again add extra burden to Medicaid.

All too often, fiduciary abuse is not considered a crime by those involved. A durable power of attorney is not an advance on inheritance, but a legal instrument created to ensure the health and safety of elders and disabled persons.

We ask the Committee to pass Senate Bill 19 to make clear that misuse of a durable power of attorney is abuse of a dependent adult, and must be treated as a serious crime that effects every Kansas citizen.

We appreciate the opportunity to present these concerns to the Committee. Thank you for your attention to this important issue. I would be pleased to answer questions.