



**An independent voice for  
those served by KanCare**

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Chair Davis and members of the House Committee on Children & Seniors, thank you for the opportunity to appear in support of HB 2704 on behalf of the KanCare Advocates Network (KAN). KAN is a coalition of more than 50 organizations and individuals who advocate on behalf of the 400,000 Kansans who depend upon the Kansas Medicaid program, KanCare, and its seven HCBS waiver programs for their health care and long-term supports and services.

KAN closely monitors data that reflect the effectiveness and outcomes associated with health and long term supports and services, particularly related to KanCare. Our state's continued poor performance in the area of antipsychotic usage among nursing home residents with dementia is an indicator which continues to show that current safeguards are not working. It is well past time for us to fix this problem and end the unnecessary suffering of nursing home residents with dementia.

The inappropriate and overuse of antipsychotics in nursing homes spans all residents whether they are served under Medicare, Medicaid, private insurance or private pay. Reducing use in nursing homes was recognized as a performance measure and included several years ago in the Pay for Performance Measures under KanCare. Meeting this performance measure means that the managed care organizations (MCOs) receive financial incentives if nursing homes reduced the usage of antipsychotics by 10%. This data is not public, but based on our continued ranking as one of the worst users of this drug, this incentive does not appear to be effective.

Currently, families and residents have the right to refuse these drugs but refusing puts themselves at risk of intimidation, threats and retaliation of being discharged from the facility. That was confirmed in the recent Human Rights Watch (HRW) study of six states, including Kansas. The Kansas families featured in the HRW video gave real-life examples of how residents' rights are being abused. This right isn't enough to prevent the abuse of these drugs.

Opponents to HB 2704 will point to the enforcement process as the solution to this problem. HRW recommends that “*CMS and State agencies should use the regulatory and enforcement tools at their disposal to ensure that routine violations that help to safeguard individuals’ human rights cease.*” At the same time, the Kansas nursing home industry is claiming that the enforcement process is too stringent and has asked the legislature to direct the State to ease up on the State enforcement of federal regulations. In reality, HRW found that 97% of the deficiencies cited related to antipsychotic use were tagged as a low Level 2 (D, E and F). These citations carry no penalties or fines.

The written, informed consent outlined in HB 2704 is a reasonable first-step for Kansas to begin addressing our drug problem. Physicians and nurses *should* be discussing options with families and residents, but that doesn’t happen consistently at all times in all facilities. HB 2704 provides documentation that those conversations occur and that an individual’s right to consent is protected. Documentation also allows for better enforcement of current requirements and provides a trackable performance measure.

Solving this problem is not impossible. Other states have decreased their usage by double-digit percentage points. Some individual Kansas facilities have all but eliminated usage. Reducing antipsychotic usage can be done. Written, informed consent is a best practice and is not an unrealistic tool to adopt to decrease usage. Shame on us for not collectively addressing this problem sooner. We can begin to make amends today by making sure persons living with dementia in adult care homes and their families have the information needed to make the decisions that are right for them. Please support HB 2704.

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