



TO: House Children's and Seniors Committee

FROM: Chad Austin
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DATE: March 20, 2018

RE: House Bill 2704

On behalf of the members of the Kansas Hospital Association, we appreciate the opportunity to provide comments in opposition on House Bill 2704. The proposed legislation requires that a written informed consent be obtained by a health care prescriber prior to administering an antipsychotic medication that has a boxed warning under 21 CFR 201.57.

Over the past several years, the public attention regarding the use of antipsychotic medications in adult care home settings has increased. In 2015, the U.S. Government Accountability Office issued a report to Congress highlighting the antipsychotic drug use among older adults in nursing homes that have dementia. In its conclusions, the GAO acknowledged the prescribing of antipsychotic medications to an older adult is dependent upon several factors and must take into account the possible benefits of managing behavioral symptoms associated with dementia against potential health risks. The GAO study further recommended that the U.S. Department of Health and Human Services expand its outreach and educational efforts to settings outside of nursing homes.

At present, the Centers for Medicare and Medicaid Services, which oversees the federal laws governing federal quality and safety standards for nursing homes, has regulations outlining the use of antipsychotic drugs (CFR 483.25(l)(2)). It states the following:

(2) *Antipsychotic Drugs*. Based on a comprehensive assessment of a resident, the facility must ensure that –

(i) Residents who have not used antipsychotic drugs are not given these drugs unless antipsychotic drug therapy is necessary to treat a specific condition as diagnosed and documented in the clinical record; and

(ii) Residents who use antipsychotic drugs receive gradual dose reductions, and behavioral interventions, unless clinically contraindicated, in an effort to discontinue these drugs.

The CMS regulations also requires each resident's drug regimen to be free from unnecessary drugs. An unnecessary drug is any drug when used: (i) in excessive dose; (ii) for excessive duration; (iii) without adequate monitoring; (iv) without adequate indications for its use; (v) in the presence of adverse consequences which indicate the dose should be reduced or discontinued; or (vi) any combination of the reasons above. Towards that end, a health care organization is putting itself at risk if it does not adhere to the federal regulations outlined above.

Further, there already exists a consent to care and treatment when an individual is admitted into a hospital or nursing home setting. These informed consent documents are explained and signed upon during admission by the patient and/or guardian. Kansas hospitals do not believe another informed consent for the administration of medication should be required.

Kansas hospitals emphatically support the practice of providing the right care, in the right setting, all of the time. This belief extends to all treatment, including the administering of antipsychotic medications to adult care home residents. While well intended, KHA believes House Bill 2704 may create some unintended consequences. The proposed legislation appears to aim at addressing the administration of antipsychotic medications in adult care homes, but the language may be interpreted to extend to all health care settings where an adult care home resident is receiving services. It has been our impression that hospital discharge planners have found it increasingly difficult to find placement for patients with a history of dementia and challenging behavioral health care issues. Good quality nursing homes have become more reluctant to accept anyone that may challenge their available resources, or who may pose a risk for survey issues and fines. House Bill 2704 does very little to address the core issue of ensuring that antipsychotic medications are administered only in appropriate circumstances. Rather than passing House Bill 2704, KHA urges the committee to consider requesting further study into the true drivers behind antipsychotic use in adult care homes.

Thank you for your consideration of our comments.