



**Kansas Advocates  
for  
Better Care**

# Making Elder Care Better for 35 Years

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

February 15, 2011

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Chairman. Bethell and Members of the Aging and Long-Term Care Committee,

Since 1975 Kansas Advocates for Better Care (KABC) is a not for profit organization that has given voice to long-term care consumer concerns. Over the past three decades, long-term care options have grown – from nursing homes, to assisted living, to continuing care retirement communities, and now, increasingly toward home and community based care – allowing elders and persons with disabilities to age in the place of their choosing.

Kansas Advocates for Better Care appreciates Representative Tom Sloan's leadership in introducing legislation that would move Kansas in a direction which would better protect the health and safety of persons receiving long-term care at home.

Kansas Advocates for Better Care strongly supports the provisions in HB 2110 and its extension of ombudsman services to persons receiving long-term care but residing outside a licensed facility as well as the provisions providing access to the ombudsman for persons living in Kansas soldiers' and veterans' homes. We believe the bill that you are considering is a positive direction for Kansas to move. It would offer Kansas recipients of long-term care an independent, objective authority, able to intervene on their behalf whether they were in a nursing home or in their own homes. The Ombudsman is uniquely positioned to understand and address the needs of long-term care recipients.

Under the existing oversight structure in nursing homes Kansas Department on Aging investigates complaints of abuse, neglect and exploitation in most but not all nursing facilities. The soldiers' and veterans' homes as well as the nursing homes for mental health are currently outside the state long-term care ombudsman's jurisdiction. The State Long-Term Care Ombudsman advocates on behalf of facility residents at their request. In home settings, SRS Adult Protective Services investigates complaints of abuse, neglect and exploitation. But there is no parallel component (like the ombudsman) for consumer advocacy in the home setting.

State legislatures in twelve other states have recognized the need and passed enabling legislation for long-term care ombudsmen to advocate, mediate and negotiate on behalf of elders and others who receive community based, long-term care services in their homes. Two other states, Georgia and New Mexico, have passed legislation to extend the long-term care ombudsman's authority to serve persons transitioning from nursing homes to the community as part of their Money Follows the Person program. Three states passed legislation mandating community long-term care ombudsman services in the years just prior to the passage of OBRA Nursing Home Reform in 1987.

Establishing an ombudsman for the home-based care program does the following important things. It:

- fills the gap in the existing system to provide the same level of advocacy for persons receiving long-term care whether in their homes or in a nursing home,
- builds public confidence about the safety and health oversight for home-based services,
- provides some level of protection when the inevitable occasionally occurs, and
- provides a safety net for the minimally regulated services of home-based care.

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HOUSE AGING & LTC  
DATE: 2/15/11  
ATTACHMENT # 3

We do not wish to see the responsibility of the Ombudsman extended beyond the program's ability to provide adequate service to those in licensed care facilities.

Such a move would undermine the efficacy of the Ombudsman's office and in essence remove the health and safety protection currently in place for those in licensed long-term care facilities. The Institute of Medicine has recommended a ratio of one ombudsman to every 2,000 residents of long-term care facilities. In Kansas we are currently short of that recommendation by at least two ombudsmen, more if the veterans' and soldiers' homes and the nursing homes for mental health are included.

We do not want the legislature to create a hollow promise to persons receiving long-term care at home by extending the Ombudsman's mandate to serve without the resources necessary to serve. A few states have taken this approach and left their citizens without access to advocacy and left the ombudsman program without a way to offer the protections it was intended to provide.

Consumers of long-term care are aware of Kansas' current economic plight, which strains the state budget. The economic downturn has also placed persons receiving long-term care in a position to be at greater risk for financial abuse and exploitation. Kansas Advocates for Better Care supports the establishment of an advisory committee for the purpose of making recommendations for how the long-term care ombudsman services might be extended and for what the scope of an ombudsman program serving persons receiving long-term care in the community would be. Kansas Advocates would offer the following in addition to the provisions in the proposed legislation:

1. Direct the Advisory Committee to:
  - identify critical components for home based long-term care advocacy,
  - analyze existing models and funding options,
  - make recommendations for adequate staff to recipient ratio,
  - determine/identify covered population,
  - define the scope of response ability,
  - determine training needs for staff or expertise for new staff,
  - Identify potential geographic areas for pilot project.
  
2. Report to appropriate legislative committee within twelve months on pilot project for ombudsman to serve long-term care consumers in at-home settings.
  - identify potential geographic sites and populations served,
  - recommend program model,
  - address pilot project staffing needs and projected project costs,

This legislation addresses a critical need for consumers of long-term care. The Members and Board of Kansas Advocates for Better Care urges this Committee to advance HB 2110.

Thank you for the opportunity to express our opinion.

Sincerely,  
Mitzi E. McFatrach  
Executive Director