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TESTIMONY IN SUPPORT OF HB 2704

Chairman Davis, Ranking Member Ousley and members of the House Children and Seniors Committee, I present this testimony today in support of HB 2704, which addresses the problem of overuse of antipsychotic drugs to control behaviors in residents of adult care homes who have dementia.

This bill would require prescribers to obtain written informed consent from an adult care home resident, or a person acting on behalf of the resident if the resident is incapacitated, before prescribing an antipsychotic drug for the resident. The Department of Aging and Disability Services would be required to provide on its website or by mail multiple, drug-specific forms for obtaining informed consent for the administration of antipsychotic medications. The bill specifies the types of information to be requested on the form. This includes (a.) a space for a description of the benefits of the proposed treatment and the way the medication will be administered; (b.) a description, using the most recently issued information from the United States Food and Drug Administration, of the side effects or risks of side effects of the medication and any warnings about the medication; (c.) a space for a description of any alternative treatment modes or medications; and (d.) a space for a description of the probable consequences of not receiving the medication.

The bill stipulates that the prescriber is to send a copy of the completed informed consent form to the adult care home, which shall place a copy of the completed form in the resident's chart. Upon request, the adult care home shall give the resident or a person acting on behalf of the resident a copy of the completed informed consent form. Written informed consent is valid until withdrawn or until any specific time period listed on the consent form by the resident, or their representative, has passed. The resident, or a person acting on behalf of the resident, may withdraw consent, in writing, at any time. Under the bill, no one may retaliate against or threaten to retaliate against the resident or their representative for refusing to provide or for withdrawing consent.

Provisions in the bill allow for the prescribing and administering of antipsychotic drugs to an adult care home resident in the case of an emergency where the resident is at significant risk of physical or emotional harm or the resident puts any other individual at significant risk of physical or emotional harm and when time and distance preclude obtaining written informed consent before administering an antipsychotic medication.

I introduced HB 2704 through the Children and Seniors Committee out of concern for the safety and well-being of dementia patients in Kansas adult care homes who are inappropriately being given antipsychotic medication to sedate them. According to Centers for Medicare & Medicaid data, there was a total of 9,673 Kansas nursing facility residents for 2017 Q3, which includes 2016 Q4, 2017 Q1,2,3. The total number of elders who received an inappropriate antipsychotic medication for just 2017 Q3 was 2,331. Those residents defined as receiving an inappropriate antipsychotic medication would be for those individuals who DO NOT have a diagnosis of schizophrenia, Huntington's disease, or Tourette's. These drugs are not approved to treat dementia.

Inappropriate use of antipsychotic medications poses a significant risk of death for dementia patients. Seventeen double-blind studies have identified an increase (nearly double) for mortality in older adults with dementia from antipsychotic use. Studies looked at use within the first 10 weeks and rate of mortality for various periods of time, such as 180 days after cessation of use.

A paper titled "Atypical Antipsychotic Use in Patients with Dementia: Managing Safety Concerns" by Martin Steinberg, MD and Constantine Lyketsos, MD MHS addresses these risks: "The decision to initiate an atypical antipsychotic in the elderly with dementia is not one to be taken lightly. Large-scale meta-analyses of clinical trials have consistently demonstrated a 1.5-1.7 times increase in the risk of mortality with their use in dementia. All atypical antipsychotics carry a black box warning from the FDA about this risk, and a similar warning applies to conventional antipsychotics. Atypical antipsychotics are also linked to a 2-3-fold higher risk of cerebrovascular (CVAE) events (absolute risk of 1%). The 2012 American Geriatric Society Beers consensus criteria for safe medication use in the elderly recommend avoiding antipsychotics to treat neuropsychiatric symptoms of dementia due to the increased mortality and CVAE risk 'unless nonpharmacological options have failed and patient is threat to self or others.'"

Additional risks include stroke, pneumonia, cardiac event, falls, diminished cognitive function, confusion, muscle contractures (often irreversible and painful) and Tardive Dyskinesia (uncontrolled face and jaw contortions), significantly diminished quality of life and reduced ability to communicate.

Kansas currently ranks 50th worst in the country in overuse of antipsychotic medications on dementia patients in adult care homes, switching places with Oklahoma, now 51st on a list that includes all 50 states and the District of Columbia. Kansas has ranked at or near the top in percentage of medicated adult care home residents, ever since the federal government began tracking the off-label use of antipsychotic medications in nursing homes in 2011.

Kansas has not made the strides that some other states have made on this issue. We need to identify the reasons for this problem and take concrete steps to reduce usage rates of antipsychotic medications in dementia patients. It is a complex issue that needs to be addressed by bringing together all the various stakeholders – prescribers, nursing facility associations, nursing facility managers, the hospital association, the medical society, the long-term care ombudsman, the Alzheimer's Association, patient advocacy groups, patients, and relatives and guardians of patients – to commit to working together to address this critical issue. Kansas can and must be better than 50th in the nation.

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Informed consent is a best practice used broadly across the country. What this bill proposes mirrors the current duty and “standard of care” for physicians. Passage of HB 2704 would ensure the use of this practice to inform adult care home residents or their representative about the potential benefits, side effects and risks of giving antipsychotic drugs to dementia patients. I have heard from 17 people from all across the state urging support for this bill, and many of them state that dementia patients or their representatives are not currently being properly informed about these strong drugs. People at the end of their lives have the right to have the best experience possible, whether they live at home or in a nursing facility. Passing this bill is a step in the right direction on this. I urge the committee to recommend HB 2704 favorably for passage. Thank you.