



To: House Children and Seniors Committee

From: Rachelle Colombo  
Director of Government Affairs, Kansas Medical Society

Date: March 15, 2018

Re: HB 2704; regarding informed consent

Thank you for the opportunity to appear this morning in opposition to HB 2704, which imposes certain specific statutory requirements regarding informed consent related to the prescribing of antipsychotic medications to patients in adult care homes.

Before we enact an express statutory informed consent requirement prior to the administration of antipsychotic drugs in such facilities we think a broader conversation about the nature and extent of the problem in our state is warranted.

The Kansas common law standard for informed consent is well-established, understood and accepted by the health care provider community, and it applies in every clinical venue and situation, including adult care homes. It requires the treating physician or other health care provider, in the absence of an emergency, to disclose to the patient (or the patient's legal representative) the risks and benefits associated with a proposed medical service or procedure in order that the patient may make an informed consent to the service. The duty of the provider is limited to those disclosures which a reasonable medical practitioner would make under the same or similar circumstances, based upon the facts of each case.

In addition, federal law provides that adult care home residents have the right to be fully informed of their medical condition, the risks and benefits of any proposed care, any treatment alternatives, and the right to request, refuse, and/or discontinue treatment. While seven states have adopted informed consent laws that mimic the federal standard, the vast majority of states have not. We believe Kansas' informed consent structure is adequate to protect the rights of patients in nursing homes, and are concerned that carving out a narrow, specific exception has the potential to add unnecessary complexity and confusion to this area of health care.

The treatment of dementia-related psychosis and related behavioral symptoms in nursing home patients is a complex problem for patients, their families, their physicians and other caregivers, and for the nursing facilities that care for them. Because all of these parties

really have the same desire – optimal care in an appropriate setting – we feel that engaging stakeholders to better understand and discuss the problem together will result in more effective solutions.

We would respectfully request that rather than advancing HB 2704, a stakeholder group should be convened to discuss the issue of the use of antipsychotic drugs in the nursing home setting. We oppose HB 2704 and appreciate your consideration of our comments. Thank you.