

KANSAS TRIAL LAWYERS ASSOCIATION



To: Rep. Susan Concannon, Chairman
Members of the House Committee on Children & Seniors

From: Callie Jill Denton, Executive Director

Date: January 28, 2021

RE: Testimony in support of HB 2004 “Charlie’s Bill”

On behalf of the Kansas Trial Lawyers Association, I am pleased to provide testimony in favor of HB 2004, (“Charlie’s Bill”) and I respectfully request that the committee recommend the bill favorable for passage.

KTLA members are attorneys that represent Kansans in cases involving personal injury, workers compensation, and consumer protection. KTLA members represent long term care residents and their families in cases involving residents’ care.

Involuntary removal can be physically and mentally devastating to frail Kansans living in residential care facilities. Right now, Kansans in adult residential care facilities and their families are at the mercy of facilities when facing involuntary transfer or discharge.

We appreciate Rep. Highland’s leadership in introducing HB 2004. HB 2004 is a reasonable and modest step. It protects all Kansans living in residential care facilities. It authorizes the Secretary for Aging and Disability Services to review appeals of involuntary transfer or discharge and provides the criteria the Secretary must review to determine that such transfer or discharge is appropriate.

Federal law already limits the conditions under which a resident may be transferred or discharged and addresses the process when the circumstances are involuntary. HB 2004 does not add new conditions; it specifies that the Secretary of KDADS will review appeals of involuntary transfer or discharge based on criteria that mirror the federal law and assure:

1. One or more conditions under which transfer or discharge is permitted are met;
2. Before the involuntary transfer or discharge, the facility notified the resident or their designated family member and provided a reason for the transfer or discharge;
3. The reason for the transfer or discharge has been documented by the resident’s physician in the clinical record;

4. A written discharge notice has been provided by the resident's physician that includes the reason for the transfer or discharge, the effective date, and the right to appeal, and contact information for agencies responsible for protection and advocacy of similar individuals;
5. Required notice has been provided ten (10) days in advance of transfer or discharge by the facility unless there is a threat to safety of other residents or the resident has urgent medical needs; and
6. A discharge plan was developed with the involvement of the resident and the resident's legal representative or family.

Most importantly, HB 2004 grants statutory authority to the Secretary of KDADS to review appeals and determine that residential care facilities have followed the appropriate procedures when initiating involuntary transfers and discharge. HB 2004 ensures that residential care facilities are following the law and that all Kansans in residential care facilities will have the protection of law.

On behalf of the members of the Kansas Trial Lawyers Association, I respectfully request your support for HB 2004, and that the committee recommend the bill favorably for passage.