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House of Representatives

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Committee Assignments
Chair: Water
Member: Commerce, Labor and Economic
Development
Member: Taxation
Member: Rules and Journal

January 22, 2021

House Children and Seniors Committee
Kansas House of Representatives

Ref: HB 2004, Testimony as Proponent

Chairwoman Concannon members of the Committee:

Thank you for allowing me the time to come before you to give my testimony in favor of HB 2004. In accordance with the new House Rule, I put this bill forward at the request of a constituent, Ms. Rachel Imthurn. This issue is very personal with her and after hearing her story and others with similar complaints, I felt compelled to bring this issue before the legislature. They will share their experiences with you that will drive home the need for this legislation.

The problem is that residents of nursing homes can file an appeal if they are mistreated or evicted without cause, backed by federal regulations. In Kansas, many care homes are not nursing homes and are not under the enforcement of federal law and/or regulations. Therefore, they cannot file an appeal for any action taken. Assisted living facilities are under state law only. This bill will correct that injustice and give all inhabitants of all care facilities in Kansas the right to appeal.

Thank You,

Respectfully submitted by,

Ron Highland, Dist. 51
Kansas House of Representatives

Kansans have a chance to help prevent wrongful evictions from care facilities



By Margaret Farley - January 27, 2021



Charlie Imthurn died after being forced to move from his assisted living facility. (Submitted to Kansas Reflector)

The Kansas Reflector welcomes opinion pieces from writers who share our goal of widening the conversation about how public policies affect the day-to-day lives of people throughout our state. Margaret Farley is executive director of Kansas Advocates for Better Care.

In the 1970s, I was an RN discharge planner at a hospital in Overland Park. A big part of my job was to find a "nursing home placement" for elderly patients who had to be discharged.

To me, many seemed frail but not terminal when they left the hospital. Often I would get a call within a week or two that the patient had died. I watched that phenomenon, did a little research and started to learn about "transfer

trauma," a sudden, traumatic decline and, often, death due to a severely disruptive event in the older person's life — like a sudden loss of your home.



Back then there was no such thing as an alternative to nursing home care, such as assisted living facilities, homes plus or residential care facilities. Back then if you were booted from a nursing home, you had zero right to appeal; the home called all the shots. It was a time of uncontrolled heartless and dangerous nursing home evictions.

Payor rules changed all of that in 1987. Now, thanks to that federal nursing home reform law, when residents of nursing facilities are evicted, they have a right to appeal through a fair hearing for both parties. Medicare and Medicaid have rules because they pay the bills: no evictions unless the facility can prove that the reason is a lawful reason. The lawful reasons, simplified, if proven, are:

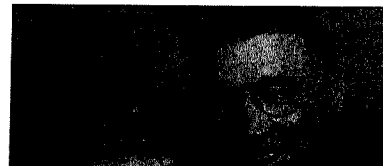
- You got so much better you don't need nursing home care.
- You declined so much the facility can no longer meet your needs, and can prove it.
- You are a threat to the safety or health of others, and the facility can prove it.
- The facility closes.
- You don't pay your bill (except when applying for Medicaid).

For the second and third reasons, your doctor has to say so in your record. Residents of nursing facilities have the right today to appeal when evicted.

I have gotten to know Rachel Imthurn a little since I became the executive director of Kansas Advocates for Better Care earlier this month.

Rachel's husband, Charlie Imthurn, died about 10 years ago after being forced to move from his assisted living facility. They both loved the place and had been assured by management that they were there to stay. The facility evicted a few other residents in addition to Charlie. Rachel believes Charlie was severely traumatized by the move. He declined fast and died within nine days of the transfer.

Transfer trauma. Charlie and Rachel were at the mercy of the owners and managers of the fully licensed assisted living facility, had no



option but to move, and had no right to a fair hearing to appeal the eviction.

On Jan. 11, thanks to Rep. Ron Highland, R-Wamego, after a 10-year campaign to right this wrong for other residents of assisted living facilities, Rachel Imthurn now has the solution to the problem: HB2004, scheduled to be heard in the Children and Seniors Committee on Thursday.



Rachel and Charlie Imthurn both loved their assisted living facility and had been assured by management that they were there to stay. After the facility evicted several residents, Rachel believes Charlie was severely traumatized by the move. He died shortly afterward. (Submitted to Kansas Reflector)

If passed by the Legislature, HB2004 will level the playing field between residents wrongfully evicted from homes plus, assisted living facilities and residential care facilities and the owners and operators. For the first time, HB2004 gives residents of assisted living facilities the right to be heard in an administrative hearing, just like nursing facility residents. It protects assisted living facility residents from being wrongfully evicted.

If COVID-19 has taught us anything about long-term care, it is that we need to care more about long-term care. We need more of it in the community, in more community friendly, less institutional type settings.

Our population over age 65 explodes in the next 10 years. We need good assisted living facilities for older adults. And the people who live there need the same rights as nursing home residents. HB2004 helps to close the gap.

It is a fact of life. As we age, most of us will at some point require help with the tasks of daily living. Aging is no picnic. HB2004 softens the blow. Ageism exists in our society. It affects our politics. Ultimately, societal ageism let Charlie and Rachel Imthurn down.

Let's work to make long term care in Kansas better by passing HB2004. Where you live and how you live always matters, even when we get older.

Through its opinion section, the Kansas Reflector works to amplify the voices of people who are affected by public policies or excluded from public debate. Find information, including how to submit your own commentary, here.



Margaret Farley

Margaret Farley's professional career, first as a registered nurse and then as an elder law attorney, is dedicated to preventing abuse and neglect of elders and assuring that elders receive the good care they need. She has published numerous legal articles, contributed to many consumer guides and made countless professional presentations on issues related to long-term care. She has served as president on the board of Kansas Advocates for Better

Care and NCCNHR (now the Consumer Voice), a national long-term care consumer advocacy organization. As KABC's executive director, she is responsible for representing Kansas elders and their families in the Legislature, national advocacy partnerships, and statewide presentations and caregiver trainings.