



To: Rep. John Barker, Chair, and Members,
House Judiciary Committee
From: Rachel Monger, Director of Government Affairs
Date: March 11, 2015

Testimony in Support of Senate Bill 57

Thank you, Chairman Barker and Members of the Committee. I am Rachel Monger, Director of Government Affairs for LeadingAge Kansas. We have 160 members across Kansas, which include not-for-profit nursing homes, retirement communities, hospital long-term care units, assisted living and residential health care residences, homes plus, low income housing, home health agencies, home and community based service programs, PACE and Meals on Wheels. Our members serve more than 25,000 elders each day.

LeadingAge Kansas wholeheartedly supports Senate Bill 57 and its amendments to the Durable Power of Attorney Act to strengthen prevention and prosecution of elder financial abuse.

Victims of financial abuse are often left destitute, in mental and emotional anguish, and in increased jeopardy because they cannot pay for necessary services to maintain their health and safety. Allowing vulnerable and medically fragile elders to be put in such a situation is intolerable, and we believe Senate Bill 57 will help prevent abuse issues and address them if and when they happen.

A Serious Crime – Growing Fast

Financial exploitation of the elderly, and most especially fiduciary abuse committed by durable powers of attorney, is the fastest growing crime against the elderly.

Financial abuse and exploitation has now surpassed all other types of abuse investigated by Kansas Adult Protective Services. In 2009, the direct costs associated with elder financial abuse amounted to \$2.9 billion nationally – a 12% jump from 2008.

The U.S. Census Bureau estimates that 25% of Kansas will be over the age of 60 by the year 2030. As the population of elder Kansans expands, so will the number of

financial abuse cases. We must act now to stem the tide of abuse, and make clear to all that elder abuse in all of its forms is a very serious crime in Kansas.

Accountability for Durable Powers of Attorney

The cases of financial abuse the public most often hears about are scams committed by strangers. While con artists and telephone scams are a very serious problem, research and experience shows us that the majority of financial abuse is committed by family members, most often the family member who has been granted a durable power of attorney by their victim. In fact, studies by the National Center on Elder Abuse have found that 90% of all elder abusers are family members.

All too often, fiduciary abuse is not considered a crime by those involved. For too long it has been dismissed as a private family matter, or an issue for the civil courts. The lack of oversight or accountability for DPOAs makes the detection of this crime difficult, and data collection a significant challenge.

Long term care providers are at the front line for detecting this type of crime. Failure of a resident to pay the amount owed for their care often leads to the discovery that the resident's DPOA has used up the elder's resources for their own pleasure and benefit. Our members have experienced a significant increase in the occurrence of this type of abuse over the years, and have tried their best to sound the alarm on the need to address this very serious crime.

Unfortunately, only a small percentage of elders are part of the formal long term care system. Most cases of fiduciary abuse occur undetected in the community, with no protection for victims.

We support all measures taken to strengthen accountability for durable powers of attorney. A DPOA is not an advance on inheritance, but a legal instrument created to ensure the health and safety of elders and disabled persons. Kansas law needs to be clear that use of money or property by a DPOA for the benefit of anyone but the elder is a criminal act.

Financial Abuse is a Cost to Everyone

Financial abuse not only affects the victim, but also every Kansas tax payer. Financial exploitation and misuse perpetrated by DPOAs impoverishes dependent adults, and increases the burden on our already struggling Medicaid system.

When the victim is residing in a nursing home, the home usually absorbs tens of thousands of dollars in costs for care. Those losses are passed on to private pay residents. Increase in private pay rates accelerate the impoverishment cycle for residents, and again add extra burden to the Medicaid system.

We appreciate the opportunity to voice our concerns to the Committee regarding elder abuse, and hope the issue of elder justice will continue to get the attention it so desperately needs.

We ask the Committee to vote in favor of Senate Bill 57, to make clear that financial exploitation and misuse of a durable power of attorney is abuse of a dependent adult, and must be treated as a serious issue that affects every Kansas citizen.

I would be pleased to answer any questions.