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Senate Committee on Public Health and Welfare
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Testimony given by: Haely Ordoyne
Legislative Committee Co-Chair
Kansas Adult Care Executives Association (KACE)

Senator Gossage and Members of the Committee:

The Kansas Adult Care Executives (KACE) is a non-partisan, non-profit professional association representing nursing home administrators and assisted living operators in Kansas. Our membership is represented in both the nonprofit and for-profit adult care sectors. We are the literal boots on the ground and are on the forefront of delivering care to our aging and senior population daily.

The Role of Assisted Living Facilities, Residential Healthcare Facilities, and Home Pluses

Thank you for the opportunity to provide testimony in opposition of Senate Bill 191 that establishes requirements for the right to appeal an involuntary discharge from a adult residential care facility.

The virtue of aging in place for seniors is universally recognized by everyone. Our goal as consumers, family members, and caregivers should always be to provide care in the least restrictive setting. State licensed only healthcare settings were created for seniors who have fewer medical and service needs than those who need long-term care or skilled nursing services, and therefore the menu of services provided and allowed by State licensure is very different than in Skilled Nursing Facilities.

When a state licensed only adult care home welcomes a new resident into the community the desire is for the resident to remain at the lowest level of care and service needs for as long as possible, but unfortunately a decline in functional capacity is a normal part of the aging process that we will all experience over time to varying degrees. When those declines become acute, and the resident's physician clinically determines that the current care setting is no longer appropriate, it is in the best interest and safety for the resident, and in the best interest and safety of all residents living in the adult care home, to help the resident find a setting that can best take care of him or her.

The current process in place for a 30-day involuntary discharge within a state licensed only facility require that there must always be communication with the resident and families about the resident's care and service need changes. There must also be conversations about finding a more appropriate care setting, and a third-party clinician such as the resident's primary care physician must agree that a change is necessary. Appealing the discharge from a state licensed adult care home and appealing the discharge from a private residence are not the same. When a resident first comes to a state licensed only adult care home the resident negotiates the services that he or she will need with the adult care home. The commitment made by each party are based on the functional capacity of the resident and they are based on the capabilities of the adult care home at the time. If the needs of the resident change, and the adult care home is no longer resourced to care for the resident, it is not safe for the resident to continue living in the current the setting.

Creating an appeal process will not change the capabilities of state licensed only adult care homes. An appeal process will only prolong the amount time that the resident will remain in a care setting that cannot meet their needs. The safety of the resident will be at risk. Adult care homes will experience additional negative financial and liability repercussions as well, but our primary focus is on the well-being of the residents who our state licensed adult care homes are responsible to care for. What will an appeal process entail? Will the Kansas Department for Aging and Disability Services secure dementia certified specialists and physicians to review the resident's medical records? Will the appeal process remove the expertise of those professions and place the decision in the hands of agency employees? If specialists or medical professionals will be part of the review process, are we not already acknowledging that a level of care or service need has changed? These are legitimate questions that we have regarding the appeal process, and we urge the committee to work through them before passing the legislation out of committee.

Conclusion:

If a resident remains in an adult care setting that is no longer appropriate based on how his or her capacity relates to the capability of the adult care home in which he or she resides, there risk of harm to the resident, and adult care home is being required to practice beyond the scope of the original agreement made with the resident previously. An appeal process will not improve those circumstances or change the capabilities of the home to deliver care or services they are not equipped for. Current regulations provide for a process that assures these decisions are made with clinical objectivity.

As always, we thank you for your efforts and the time to provide our updates and concerns of the industry and we look forward to the legislative efforts on these critical issues. We are here to answer any questions, and we are happy to collaborate in all efforts to support our seniors and aging population.