

Advocacy in Action – March, 2022

The 2022 regular Kansas legislative session closed with “first adjournment” Friday, April 1. Legislators will return on April 25th to wrap up in the “veto session.”

The following is an update on the KABC priority bills and issues.

HB 2004 / Creating the Right to Appeal Involuntary Discharge in Assisted Living Facilities

KABC’s highest legislative priority this year was HB 2004, also known as "Charlie's Bill."

It created the legal right for residents of assisted living facilities to appeal an eviction/involuntary discharge. Older adults at home or in nursing facilities have the right to appeal evictions. Only those living in assisted facilities are denied that right. These evictions put older adults at grave risk and are the complaint most often heard by the Kansas Long-Term Care Ombudsman.

Introduced in 2021, the bill finally passed out of the House Committee on Children and Seniors in February 2022 for vote by the full House. Unfortunately, House leadership chose not to bring the bill to a vote, preventing the bill from moving forward.

In Kansas, residents in assisted residential care facilities have no right to appeal an eviction to the state’s administrative hearings court or to an objective party. Older adults living in a nursing home have the right to appeal an eviction guaranteed by federal and state law. Older adults renting an apartment or owning a home in the community have the right to appeal an eviction.

Charlie’s bill was introduced by Rep. Highland on behalf of Rachel Imthurn of Maple Hill whose husband, Charles ("Charlie") Imthurn was evicted in 2011 from an assisted living facility. He was discharged without proper notice leaving his family little time to find another facility. Charlie died from transfer trauma nine days after being moved. Since that time, Rachel, has been trying to pass legislation to assure other families have the right to appeal such an eviction.

KABC appreciates the efforts of coalition partners who worked diligently in support of HB 2004. KABC worked alongside the Alzheimer’s Association, the Disability Rights Center of Kansas, AARP Kansas, and the Kansas Trial Lawyers Association to get this bill passed and safeguard the right of all older Kansans from being evicted from their home without recourse. KABC’s members and supporters have been key to keeping this issue in front of legislators. We appreciate the dedication and action of grassroots supporters.

SB 453 / Weakened Training Requirements for aides/CNAs & CMAs Working in Adult Care Facilities

KABC strongly opposed [SB 453](#). The bill was sought by the nursing home industry to weaken training and instructor requirements for Certified Nurse Aides or Certified Medication Aides. The bill also lowers the qualifications for the nurses who will teach the aides who provide most of the daily hands-on care for frail elders residing in nursing homes and assisted living facilities.

The bill passed both chambers after being amended in the House to clarify an unlicensed employee could work in an adult care home after completing 40 hours of basic resident care CNA training approved by the Kansas Department for Aging and Disability Services (KDADS). These unlicensed employees can provide direct, individual care to residents, but they cannot administer medications.

The bill requires the 40 hours of training and the remaining 50 hours of CNA training to be under the general supervision of a course supervisor who is a registered nurse. The bill expands the definition of what entities can act as Course Sponsor and training sites. Currently only adult care facilities can be training sites; the bill allows hospitals, hospices or Programs for the All-Inclusive Care for the Elderly (PACE).

Under the bill, any unlicensed employee who has not completed at least 40 hours of CNA training or who is not making progress to complete CNA training as a condition of employment by an adult care home within four months following completion of the 40 hours can not continue to provide direct, individual resident care. This bill does not address training for Temporary Aides who receive only 8 hours of on-line training. Temporary Aides have been allowed during the COVID Emergency which is set to expire in 2023.

When finalized, the bill will go to the Governor for her signature or veto. KABC will continue to advocate for competent trainers and training to assure safe care for older adults if the bill is signed by the Governor. KDADS will be required to draft rules and regulations related to the changes if they become law.

HB 2463 / Prohibiting changes to the KanCare medical assistance program.

The House and Senate budget conference committee rejected an attempt to include the concept of HB 2463 as a proviso to the State budget. HB 2463 began as an effort to prohibit any changes to the KanCare medical assistance program through Dec. 31, 2024, to allow the next governor to negotiate the KanCare contracts with managed care organizations (MCOs). However, it also requires the Kansas Department of Health and Environment/KDHE, the State's Medicaid Agency, to get approval for any Medicaid policy changes through a legislative committee. **KABC was among the many advocates who joined KDHE in strong opposition.**

Budget Issues

Additional Funding for Health Facility Surveyors

KABC strongly supported Gov. Kelly's recommendation to add \$838,600 for an additional eight health facility surveyor positions within the Kansas Department for Aging and Disability Services budget. Both the House and the Senate agreed to the increase which will be included in the 2022 budget bill. The surveyors - also referred to as inspectors - would primarily review health safety compliance in the State's assisted living, residential health care, home plus and boarding care facilities.

This will increase KDADS resources to meet its State and federal health safety mandates. A large deficiency in surveyors has contributed to inspections (which are to occur yearly) being delayed for two years and longer. In addition to the more than 300 nursing facilities, KDADS is responsible for inspecting the more than 400 state-licensed-only assisted residential facilities.

Rate Increases for Home and Community Based Personal Care Services/HCBS

The House and Senate budget committees have given the green light to Gov. Kelly's budget recommendation for a 10% increase for reimbursement rate increase for providers of HCBS Frail Elderly providers.

KABC supported this increase of \$11.8 million.