

Tuesday, February 17, 2004

(Oral and Written Testimony – Proponent)

Testimony before the House Health and Human Services Committee on HB 2658. An Act concerning adult care homes; relating to informal dispute resolution; providing for an independent review panel.

Chairperson Morrison and Members of the Committee:

I am Phyllis Kelly, Executive Director of the Kansas Adult Care Executives Association (KACE). Our association represents over 250 adult care home executives in nursing homes and assisted living facilities throughout Kansas. I appear before you today in support of HB 2658.

The KACE Board of Directors and the KACE Legislative Committee have reviewed the components of HB 2658. Both of these entities concur that the proposed legislation will strengthen the intent, credibility, and fairness of the adult care home informal dispute resolution (IDR) process. Key to the proposed legislation is the use of an independent review panel, selected by the secretary of aging, to conduct the IDR. As stated in HB 2658:

The IDR panels will be conducted in a timely fashion so as not to delay any correction of deficiencies not overturned by the panel;

Only one request for an informal dispute resolution per inspection may be requested by the administrator;

A facility may not seek a delay of any enforcement action on the grounds that the informal dispute resolution process has not been completed; and

All other deficiencies not in dispute must be corrected in the required timelines prescribed by the regulatory agency.

Other state regulatory agencies use an independent review panel when inspection and compliance issues are disputed. Oftentimes, federal law requires an independent entity to be used. A memo released from the Centers for Medicare and Medicaid Services (CMS) on June 12, 2003 reiterated that state agencies can use third parties to conduct the IDR. This memo further provided guidance to the state agencies when independent panels are used.

The use of an independent panel does not mean that the process automatically becomes more formal, less comprehensive, more lenient, or that there will be more conflict. In fact, it usually has the opposite effect because an independent review panel is concerned that its decisions are viewed as fair to all parties and, above all, protects the residents of the facility.

In the days of tight budgets, costs of an independent panel have been advanced by some as an issue. Currently, the members of the Board of Adult Care Home Administrators voluntarily serve a two-year term. There is no compensation for their time to participate

in Board activities. Subsequently, we are confident that there are consumers and professionals who are very knowledgeable about long-term care in Kansas adult care homes who would be more than willing to give their time to serve on one of these panels.

By the use of an independent review panel, and not its own staff, the regulatory agency cannot be accused of any bias if decisions of the inspectors are not reversed. Informal dispute resolution conducted by an independent review panel gives the inspection process more credibility and less controversy. Our Association would be very willing to work with any entity to address any component of this bill which is viewed as detrimental to quality care in our adult care homes.

We urge your support of HB 2658.