Making Elder Care Better Since 1975

Kansas Advocates for Better Care

*Founded in 1975 as **Kansans for Improvement of Nursing Homes** by concerned citizens like you.*

August 7, 2014

Chairman Crum, and members of the Joint Committee on Home and Community-Based Services and KanCare Oversight:

Thank you Chairman Crum for your leadership on legislation that created and provides legislative oversight of KanCare.

Thank you for the opportunity to testify. I am Mitzi McFatrich, executive director of Kansas Advocates for Better Care (KABC), a non-profit organization, beholden to no commercial interests; is supported almost entirely by citizen contributions in support of our mission to improve the quality of long-term care. KABC does not provide any form of direct care or receive any government money reimbursement. KABE is an established resource for older adults on long-term care issues. Elders and families facing difficult, life-altering decisions are primarily who seeks our guidance and assistance. KABC was among a handful of non-profit consumer advocacy groups which worked to win passage of the landmark Nursing Home Reform Act of 1987 and continues to advocate on behalf of frail and older adults.

KANCARE HEALTH CARE OUTCOMES: LACK OF DATA AND DECLINES FOR ELDERS

After a concerted effort by advocates, months of meetings, and repeated requests, KDHE on August 7th provided requested reports and data. The purpose of reports requested are to make available to the public data and information regarding KanCare's performance on goals to provide long-term services, adequate access, and improved health outcomes for elders in nursing and assisted facilities or at home.

DATA SPECIFIC: The utilization data now publically available is minimal and does not show data specific to elder outcomes for HCBS-FE waiver or nursing home Medicaid recipients. Instead, data contained in published reports include elders in broad categories that count/incorporate other HCBS waiver populations. **Without basic data specific to elders' utilization** of KanCare services and measurable health care goals **they are at risk for poor health care** outcomes and long term supports and services which do not address their unique needs. Nor do the reports publically available provide information specific to elders who have had cuts to their services or hours of assistance.

HEALTH OUTCOMES: Minus KanCare data, **other sources for indicators that help us evaluate the status of elder residents' health** include one prime indicator, the **off-label use of anti-psychotic drugs** for persons with dementia, **Kansas' already dismal performance continues to decline**. In the most recent state rankings, Kansas is **47th worst in the U.S.** The latest report published by Centers for Medicare & Medicaid Services (CMS) shows the use of anti-psychotics in Kansas nursing homes increased over the most recent report quarter (Jan-Mar 2014). Collectively, Kansas nursing homes are the fourth highest user of anti-psychotic medications in the nation, **placing elders at increased risk for death, negative health outcomes such as falls, lethal infections, cardiovascular complications, as well as a decreased quality of life.**

RECOMMENDATIONS: 1) Revise and Strengthen Elder Specific Health Care Outcomes and Measures and Agency Oversight. 2) Require timely, transparent public data to evaluate KanCare's

performance on stated goals and includes data which can be meaningfully compared to pre-KanCare data specific to long-term supports and services, access, and network for frail elders in all settings (home, assisted and nursing facilities)

ISSUE BACKGROUND: Anti-psychotic drugs are intended to treat severe mental illness such as schizophrenia. Several years ago, data began to show an alarming increase in prescribing them for elder residents with dementia. The drugs can cause dizziness, a sudden drop in blood pressure, abnormal heart rhythms, blurred vision, and urinary problems.

In response to the growing prevalence of use in nursing homes, the US Food and Drug Administration **(FDA) issued black-box warnings - the agency's most serious medication alert** - about the potentially **fatal side effects** when antipsychotics are taken by elderly patients with dementia. Complicating the issue is the fact that physicians have wide latitude to prescribe drugs, even for purposes not approved by the FDA or recommended by CMS.

Two years ago a national action plan was launched and is on-going, including in Kansas. The initiative uses a multidimensional approach including public reporting, raising public awareness, regulatory oversight, technical assistance/training and research. A recent CMS evaluation of the initiative showed that over 18 months, the **national prevalence** of antipsychotic use in long-stay nursing home residents **decreased 17.1%** (the prevalence rate decreased from 23.8% to 20.2%) and every CMS region showed at least some improvement. Some States showed much more improvement than others, for example Georgia reduced their rate by 26.4% and North Carolina saw a 27.1% reduction. **Kansas performance grew worse,** despite an increase in training tools and federal policy survey guideline clarifications.

Many nursing homes across the country demonstrated that these improvements can be made without a substantial investment in additional resources (and in some cases, even saved resources). **A number of State-based pay-for-performance or value-based purchasing programs (managed Medicaid and others) incentivize facilities** for providing evidence of enhanced person-centered care practices or **for tracking data on antipsychotic medication reduction.**

A facility's use of chemical restraints, such as anti-psychotic drugs, is a **prime indicator of the quality of its care**. Nursing homes with high antipsychotic prescribing rates are three times more likely than facilities with low prescribing rates to use antipsychotic medication in residents regardless of clinical indication. Patients with dementia often remain on antipsychotic medications for extended periods of time and at higher than recommended dosages.

CMS found there are a number of possible reasons for the high use of antipsychotic medications to address behaviors in people with dementia living in nursing homes. A **lack of staff training and/or relevant therapeutic recreation (meaningful activities)** for people with dementia may be contributing factors in some facilities. A culture of prescribing may have evolved in part due to the perception that these medications are effective in treating behavioral symptoms of dementia and that non-pharmacological interventions may be less effective or too time-consuming to be part of standard nursing home care for most residents.

Lower registered nurse (RN) staffing levels have also been associated with higher antipsychotic use. An in-depth investigation and analysis of CMS data found a link between staffing levels in nursing homes and the use of antipsychotics. Those with the highest percentage of residents who receive antipsychotics contrary to recommendations also tend to have the lowest numbers of registered nurses

and nurses aides. These homes may have more **Medicaid residents**, putting **lower-income elders at greater risk**.

KanCare does not track or study these metrics even thought all of these factors affect the quality of the care that residents receive. **Outcome measures for elders in nursing homes continue to be primarily administrative in nature** with one lone pay-for-performance metric on falls which addresses resident health. It tracks the number of nursing home residents at risk of falling who are seen by a practitioner and receive fall risk intervention. It is not a strong health outcome metric to reduce/prevent resident falls.

AGENCY INFRASTRUCTURE LACKING FOR SURVEY ENFORCEMENT NEEDED TO PREVENT AND REDUCE CHEMICAL RESTRAINT OF ELDERS IN NURSING CARE

To protect elder health and safety, prevent negative health outcomes and to assure provider compliance with state and federal laws and regulations for nursing facilities requires the state's survey unit within KDADS to fulfill its mandate to provide timely and robust oversight and enforcement. KDADS appears to lack the infrastructure and staffing to fulfill its mandate for assuring resident safety and timely completion of facility survey. **Contrary to the state's requirement** that all nursing and assisted type **facilities be inspected every 12 months**, **KDADS performance** stands at approximately **14 and three quarters months for nursing facility inspection**. The 18,000 **frail elders** living in Kansas Nursing facilities, **suffer 88 additional days** (on average) with **heightened risk for serious negative outcomes from anti-psychotic drug use, and abuse, or harm waiting for surveyors** to inspect a facility's practice and compliance with care standards.

KABC would welcome the opportunity to provide input to legislators and state agencies for improvement efforts and efforts to develop meaningful health care outcomes for KanCare members.

Thank you for your consideration of our recommendations. The Nursing Home Reform Act of 1987 and Kansas law give elders living in nursing homes the right to be free from physical and chemical restraints and to be treated with dignity and respect. It's time we make sure our elders are guaranteed that right.

Mitzi E. McFatrich, Executive Director

on behalf of KABC members and volunteers