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Senate Judiciary Committee

Sen. Kellie Warren - Chair

March 16, 2021

HB 2126 - Proponent

Madam Chair and Committee Members. I am Linda MowBray, President/CEO of the Kansas Health Care Association and Kansas Center for Assisted Living. We are a trade Association representing for-profit and not-for-profit nursing home, assisted living, residential health care, home plus, and nursing facilities for mental health communities across the state. We are the oldest nursing home trade association in Kansas and have over 265 member communities. Our members care for nearly 20,000 elders across the state each and every day.

We appreciate the opportunity to come before the committee today to testify in support of HB 2126 which will provide immunity to civil liability for COVID-19 claims for adult care homes.

HB2016

Scylla and Charybdis - 'between a rock and a hard place'. Like Odysseus in Homer's Odyssey, that is where many of you were during the special session – caught between the cliff dwelling man-eating monster Scylla and the treacherous whirlpool of Charybdis. HB 2016 had to get passed. There were too many important issues hanging in the balance. The sacrifice? Trading immunity to civil liability for adult care homes for a positive affirmative defense or face certain veto from the Governor. You had to choose the greater good. The whole state was counting on you. Now is the time to make it right.

HB2126

In its simplest form, HB2126 redefines adult care facilities to align with the definition in K.S.A. 39-923 and changes *an affirmative defense to immunity from civil liability* just like all other health care providers in the state.

(b) The provisions of this section shall apply to any claim for damages or liability that arise out of or relate to acts, omissions or decisions related to the COVID-19 public health emergency

Why is immunity from civil liability needed?

- Limited access to PPE
- Disconnect between KDADS, KDHE and providers
- Staffing Shortages
- Changing/evolving “best practice”
- Inconsistency between local health departments, health officers
- Lack of understanding of licensure types ex. Which are regulated by CMS and which homes are regulated by the state.

Our Kansas adult care homes know that you have heard them. They know that you want to support them. And yes they know that Legislators were truly between Scylla and Charybdis in the special session. Our providers have been between a rock and a hard place, too. Please help them and look favorably on HB2116.

Thank you and I will stand for questions at the appropriate time.