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**TO: Representative Fred Patton, Chairman,  
and Members of the Judiciary Committee**

**FROM: Colin McKenney, CEO, Starkey, Inc.**

**RE: Proposed Amendment to HB2126**

Good afternoon, Chairman Patton and members of the committee. My name is Colin McKenney, and I serve as the CEO of Starkey, Inc. in Wichita. I am speaking in support of House Bill 2126 today, but ask that it be amended to also include providers of services for individuals with intellectual and developmental disabilities that are licensed by the State of Kansas.

In a more typical year our organization would serve nearly 500 people with I/DD, assisting them to live independently. For some people that may mean help with a few specific tasks each month. For others it means care around the clock to make sure that their most personal daily needs are met. Without nearly constant care, those individuals may not be able to live outside of a nursing facility or hospital.

I share that level of detail about the work that we do to help illustrate the similarities between the services we provide and those that are provided by other entities that are referenced in HB2126. Like them, we are still responsible to meet the daily care needs of those we serve during very challenging situations. Even in an unprecedented crisis like the COVID-19 pandemic, we have continued to meet the needs of those who rely on us for assistance. In some cases we are serving individuals who choose not to follow our guidance that is intended to keep them safe. We can't prevent them from making choices that put them at risk of harm, but we are still responsible at the end of the day to care for them if they get sick.

Unfortunately the fact that we cannot close our doors and wait for the crisis to go away could be a liability for us. If someone's opinion is that we could have done one more thing to prevent them or a family member from getting exposed to COVID, he or she may choose to pursue legal action against us. Unlike a traffic accident, where the facts are usually pretty clear, the question of whether an organization like ours could have done one more thing to avoid this virus is very subjective. All of our efforts to find and purchase personal protective equipment, limit contact

between people, perform contact tracing and arrange for countless tests has been a huge undertaking, to say the least. Despite all of our efforts, someone could still make the case that there was one more thing we could have done.

With that concern in mind, I appreciate the language in HB2126 that offers liability protection for those who are acting in the best interests of the persons they care for. To then go on and state that the protection does not apply in cases of gross negligence or willful, wanton or reckless conduct also seems appropriate. We recently learned that our insurance policy now specifically excludes claims related to communicable diseases, and that type of language seems to be the new standard. So, simply defending against a claim that has no merit could create financial hardship for our organization, and take away the resources we rely upon to provide vital services to vulnerable individuals each day.

My hope is that with the addition of the amendment I am requesting, HB2126 will greatly reduce the chances of spurious legal claims against our organization and many others across Kansas. Thank you for your efforts to limit inappropriate legal claims, and to help ensure that we can continue to keep the persons we serve safe through the remainder of this pandemic.