



KANSAS BAR
ASSOCIATION

TO: The Honorable Fred Patton
And Members of the House Judiciary Committee

FROM: Joseph Molina
On Behalf of the Kansas Bar Association

RE: HB 2126 – Providing immunity from civil liability claims for adult care facilities

DATE: February 3, 2021

Chairman Patton and Members of the House Judiciary Committee:

My name is Joseph Molina and I appear on behalf of the Kansas Bar Association. The KBA appreciates the opportunity to participate in the hearing for HB 2126, **OPPOSING** immunity from civil liability for adult care facilities.

The KBA has a long-standing policy supporting access to justice, which is the ability to bring grievances before an impartial arbiter to resolve complaints based on facts and the law. Access to justice is perhaps the most essential aspect of the American judicial system. It is with this understanding that the KBA opposes increased immunity protection for adult care facilities as described in HB 2126.

Individuals harmed, even during a pandemic, should be afforded the opportunity to have their claim reviewed by a court of law. Limiting these rights through immunity provisions erodes the public's confidence in the judicial system. Immunity provisions of this type will leave injured individuals with no other recourse.

At present, adult care facilities have an affirmative defense to COVID claims so long as they can show they followed a state directive or acted in substantial compliance with a statute or rule. This is a broad protection for these groups. The affirmative action provision is a reasonable approach to take during this health emergency. It allows the balancing of the rights of the injured with the rights of the industry.

Let us be clear, we are sympathetic to the continuing crisis and the individuals and businesses affected by COVID-19. But the expansion of immunity, as proposed by HB 2126, would be damaging to the legal rights of those who believe they have been injured and their families.

For these reasons, the Kansas Bar Association **OPPOSES** HB 2126 – Providing immunity from civil liability claims for adult care facilities. Thank you for your time and attention. I am happy to stand for questions when appropriate.

About the Kansas Bar Association:

The Kansas Bar Association (KBA) was founded in 1882 as a voluntary association for dedicated legal professionals. Its more than 7,200 members include lawyers, judges, law students, and paralegals. www.ksbar.org