

Date: March 16, 2021
To: Senator Kellie Warren, Chairwoman
Senate Judiciary Committee
From: Camille K. Russell, Kansas State Long-term Care Ombudsman
Re: Testimony in support of House Bill 2126

Chairwoman Warren and Members of the Committee,

I am Camille K. Russell, the Kansas State Long Term Care Ombudsman and I thank you for allowing me to provide this written testimony in opposition to HB2126.

Our agency advocates for the rights of individuals in long term care facilities throughout Kansas. This includes nursing facilities, as well as long term care units of hospitals, assisted living facilities, home plus facilities, residential health care facilities, boarding care facilities, and adult day care centers.

Residents and their family members overwhelmingly tell us they do not wish to initiate legal action; they just want to know that what happened to them or their loved one will not happen to someone else. They tell us over and over they want these businesses to communicate with them, to demonstrate they care about the loss they suffered, to take actions to correct the conditions that allowed for the negative experience in the first place, even in cases of significant neglect or abuse. They also express extreme frustration and grief when that does not occur. They voice to us the lack of empathy and address feels worse than the original adverse event.

Suppose long-term care businesses would put as much effort into communicating and correcting their work as they put in trying to avoid responsibility after the fact. In that case, we might not need to be talking about immunity. Corrections and improvements are necessary to reduce suffering and loss of life.

Chronic understaffing and improper infection control practices existed pre-pandemic. Covid-19 certainly strained an already over-extended workforce. But the industry needs to be held accountable for providing the service it has promised to provide. The industry must do a better job of balancing the financial ledger side of its business and the human service side of its business. When it fails, there must be some incentive to do better going forward.

The industry will try to scare us that their homes may have to take bankruptcy and close if they do not receive immunity. It is scary to think we might not have a nursing home close to us if our family were

to need one. But what should scare us more is that our neighbors, our loved ones, would be in a home acting in a manner that might prompt a lawsuit in the first place.

Unfortunately, there are some businesses that will only adjust their actions if it impacts their bottom line. Providing immunity to adult care homes takes away a significant layer of protection to vulnerable Kansans.

The residents living in these homes and the staff working in these homes have suffered during this pandemic. The residents and most staff in adult care homes have been brave and resolute.

It does them a disservice to allow bad actors to go unaccountable.

Adult care homes that do their work well do not need immunity, and the homes who are not doing the work well do not deserve immunity.

Thank you for your consideration and again for allowing our Office to provide testimony in opposition to HB 2126.