



To: Rep. Patton, Chair and Members, House Judiciary Committee

Date: May 14, 2020

RE: Liability protections for health care providers in Kansas

LeadingAge Kansas is the state association for not-for-profit and faith-based aging services. We have 160 member organizations across Kansas, which include not-for-profit nursing homes, retirement communities, hospital long-term care units, assisted living, homes plus, senior housing, low-income housing, home health agencies, home and community-based service programs, PACE and Meals on Wheels. Our members serve more than 25,000 older Kansans each day and employ more than 20,000 people across the state.

We are writing this letter in support of the proposal to provide liability protections for health care providers during this national state of emergency. The protections are narrowed to only those health care activities related to the COVID-19 emergency, and do not apply to acts, omissions or decisions that result in gross negligence or willful and reckless conduct.

The liability protections being presented to the committee will preserve the ability to go after actual bad actors, while allowing all of the other adult care homes striving to do their best to continue doing so without the constant threat of litigation that drains precious resources away from resident care.

Long-term care providers are doing their part every day to aggressively prevent and mitigate the spread of COVID-19, as we deliver compassionate care under challenging circumstances. We grieve for every older adult who has succumbed to this deadly virus. So do the dedicated caregivers who work inside our state's nursing homes. These nurses, aides, housekeepers, cooks, and other workers don't appear on camera or in newspapers. But they are hurting. They grieve every time this virus takes away an older adult whom they have served, and to whom they have grown close, over many years.

These caregivers come to work every day, when staying at home would be so much safer. They put their lives, and their own families, at risk because they love their work. They feel called to help residents fight this virus so they can continue living meaningful lives long after this

pandemic becomes a distant memory. In light of this dedication, it is disappointing to see the blame of nursing homes for coronavirus deaths. That blame is misplaced and unfair.

Let's start with the facts. There are many reasons, documented by experts, why COVID-19 spreads so quickly within nursing homes. By design, these care settings are home to a high concentration of older adults with serious underlying health conditions who live in a communal environment and require hands-on assistance with basic activities of daily living like dressing and bathing.

This combination of factors helps the coronavirus spread and makes the virus extremely challenging to control, even for nursing homes that have honed their infection-control and prevention protocols during scores of influenza seasons.

Nursing homes also face additional challenges that are out of our control:

- We need personal protective equipment—including masks, gowns, and gloves—so we can keep our residents and caregivers safe.
- We need access to critical testing tools that would help us identify and isolate staff and residents who have been exposed to the virus.
- We need adequate funding that actually covers the true cost of the care we provide.

This trifecta of need—for equipment, testing, and funds—has put nursing homes at a distinct disadvantage during this health emergency. We simply haven't been given the tools we need to fight COVID-19.

The coronavirus pandemic is a clarion call for change. Now is the time to support nursing homes, give them the resources they sorely lack, and recognize their important role in the health care system. That includes providing them the same protections that every other health care provider needs during this heartbreaking time.

Please do not hesitate to contact me with any questions.

Respectfully,



Debra Zehr, President/CEO
LeadingAge Kansas