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To: Representative Lance Kinzer, Chairman
Members of the House Judiciary Committee

From: Callie Jill Denton
Director of Public Policy

Date: February 7, 2012

RE: HB 2562 Concerning public health; relating to emergency care or assistance at the scene of an emergency or accident (OPPOSED as drafted)

The Kansas Association for Justice (KsAJ) is a professional association of attorneys. KsAJ supports the policy enacted within the current “good Samaritan” statute, K.S.A. 2011 Supp. 65-2891, that addresses citizens with first responder training who voluntarily assist people with medical needs at the scene of an emergency or accident:

- The current law assures that persons rendering care have basic training in first aid techniques so that they do not cause greater harm to an already injured person.
- The current law assures that persons rendering medical care understand and recognize an emergency medical situation, and what to do.

KsAJ is concerned with the drafting of HB 2562 because it creates a separate good Samaritan statute for anyone that is not included with the definition of “health care provider” in K.S.A. 2011 Supp. 65-2891. The problem is two-fold:

- (1) By creating a separate statute, HB 2562 expands the current law beyond what is reasonably sound public policy.

The current law is limited to individuals (“health care provider”) with at least basic first aid skills: “...any person who holds a valid certificate for the successful completion of a course in first aid offered or approved by the American red cross, by the American heart association, by the mining enforcement and safety administration of the bureau of mines of the department of interior, by the national safety council or by any instructor-coordinator, as defined in K.S.A. 65-6112...and

any person engaged in a postgraduate training program approved by the state board of healing arts.” Under HB 2562, no first responder training would be required.

By implication, the definition of “emergency care or assistance” is also expanded under HB 2562. The emergency care or assistance someone may provide at the scene of an accident could be directing traffic. It is not limited to rendering medical care, which is contemplated under K.S.A. 2011 Supp. 65-2891.

KsAJ is concerned that expanding the good Samaritan statute to individuals without minimal first responder training and including actions that go beyond providing emergency medical care is an expansion that is significantly broader than is warranted, or that is sound public policy.

- (2) Separate statutes will create confusion. First, K.S.A. 2011 Supp. 65-2891 and HB 2562 are nearly identical, with the exception that one applies to certain health care providers and one applies to individuals that are not health care providers as defined in K.S.A. 2011 Supp. 65-2891. Second, the definition of “health care provider” in K.S.A. 2011 Supp. 65-2891 is different than definitions of “health care provider” found elsewhere in the statutory code. Courts will be forced to consider and harmonize these variables.

In order to avoid confusion by the courts and the public, a better course of action would be to amend K.S.A. 2011 Supp. 65-2891 to reflect and clarify that it applies to individuals with different types of first responder training and certification.

KsAJ believes that the intent behind HB 2562—to expand the types of trained first responders that should be included in K.S.A. 2011 Supp. 65-2891—is worthy of consideration, and is consistent with the public policy purpose of the statute. KsAJ is willing to collaborate with proponents on amendments for the consideration of the House Judiciary Committee.

KsAJ respectfully requests that the House Judiciary Committee take no action on HB 2562 in its current form.