

**To: Chairman Morrison and Members,
House Health and Human Services Committee**
From: Debra Zehr, RN, MA, Vice President
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Testimony in Support of House Bill 2306

Thank you, Chairman Morrison and Members of the Committee. The Kansas Association of Homes and Services for the Aging represents 160 not-for-profit long-term care provider organizations throughout the state. Our members serve over 15,300 older people in nursing homes, retirement communities, assisted living, housing and community-based services.

We are here to offer our support for House Bill 2306.

House Bill 2306 does not stop the admission of source documents, such as clinical records, as evidence in judicial proceedings. It would exclude only the state inspection report, or HCFA 2567L, which was not designed to be used as evidence in a court of law, but rather, to communicate information to nursing facilities necessary for them to analyze problems and achieve regulatory compliance.

The *Principles of Documentation* to which surveyors must adhere in completing the HCFA 2567L result in complex, repetitive narratives, containing uniquely defined terms that are not easily comprehended, even by long-term care professionals themselves. Surveyors undergo several hours of orientation, plus on-the-job training and periodic continuing education on this system. It is unreasonable to expect a lay juror to be able to grasp the meaning of a HCFA 2567L.

The HCFA 2567L does not use commonly understood definitions. Each problem is graded on level of harm and any one problem can be cited for multiple deficiencies. The threshold for "actual harm" as used in the HCFA 2567L is set very low for purposes of problem identification and correction. State survey agency officials even concede that some situations classified as "actual harm" by surveyors would not be considered actual harm by laypersons serving as jurors.

The HCFA 2567L does not reflect any appeal efforts of the facility, or any disagreement with "findings". To the extent that a facility wishes to dispute clearly erroneous findings, they cannot do it on this form.

Thank you. I would be glad to answer questions.