



Representative Morrison, Chair  
House Health and Human Services  
Senate Bill 430

Good afternoon Chairman Morrison and Members of the House Health and Human Services Committee. My name is Ernest Kutzley and I am the Advocacy Director for AARP Kansas. AARP Kansas represents the views of our more than 350,000 members in the state of Kansas. Thank you for this opportunity to express our comments and opposition to Senate Bill 430.

The Nursing Home Reform Act established state requirements for certifying nursing facilities that participate in the Medicare and Medicaid programs. The act established quality standards for nursing homes nationwide, established resident rights and defined the state survey and certification process needed to enforce the standards.

AARP supports strong nursing home quality standards. We believe that there is a need for effective oversight of nursing homes, combined with strong sanctions for health and safety violations.

AARP is working on nursing home issues in many states. While we believe that there are many good nursing homes, we also believe that there is a significant delimia with the number of nursing homes that have no insurance or assets, or nursing homes that are unable or unwilling to meet the minimum quality standards required by law. In these states we are working on solutions with all parties to ensure basic quality standards and access to courts for negligently harmed residents.

AARP supports legislation that improves the overall quality of care in nursing homes and protects the right of nursing home residents to be compensated for negligent harm they suffer. SB 430 and HB 2306 do not protect those resident's rights.

We believe that the intent of legislation such as SB 430 & HB 2306 is to hide essential and relevant evidence from a jury. AARP opposes hiding survey and inspection reports from a jury. Inspection and investigation reports:

- Are prepared by government employees at taxpayer expense,
- Are necessary to showing the existence of a pattern of abuse or neglect which could be claimed by a nursing home resident,
- Are essential to demonstrate that a nursing home had been notified of the problem being raised by the injured party,
- Should be admitted under the same circumstances as any other evidence.

AARP believes that:

- The task of any civil trial is to provide the jury with probative and relevant evidence from which the truth can be determined,
- Nursing homes currently have multiple opportunities to challenge the admissibility of survey reports if it can show that the reports are not relevant, not trustworthy, or would create unfair prejudice,
- Hiding survey reports creates special protections for an industry that is not available to other businesses or individuals, and does so to the detriment of injured nursing home residents.

While we understand that SB 430 has been amended to allow use of certain surveys, we cannot support proposed legislation unless all information is made available for protection of their rights and provides them with a private right of action to sue nursing homes for violating state laws and regulations

Therefore, AARP opposes SB 430, SB 430 as amended and HB 2306 and any attempts to amend language from HB 2306 into SB 430 or amended bill that would allow limitations of evidence.

We respectfully urge Committee Members not to support this proposed legislation.

Thank you  
Ernest Kutzley

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