

I am submitting testimony today in support of House Bill HB 2306.

My name is Lee Eaton I am a Licensed Kansas Nursing Home Administrator and an Attorney admitted to the Kansas Bar. I have served as the Executive Director of Pioneer Ridge Retirement Community, in Lawrence for the last 2 and half years.

The Statement of Deficiencies is a tool used by KDOA to list the results of surveys. The survey process, while based in regulations, is a highly subjective endeavor. A recent study commissioned by KDOA from the University of Kansas listed as preliminary findings the large regional variation in number and severity of deficiencies cited. The study goes on to state that two-thirds of those differences are unexplained.

My colleagues in the Bar will no doubt assert pursuit of the truth as rationale to admit these documents into court. Where is the "truth" in a document in which up to 2/3 of the findings depends on what region the facility is located? A truth based less on quality and more on regional location is no truth at all.

The KDOA has a program (PEAK) designed to recognize the best of Kansas' facilities. A recent meeting regarding the PEAK awards listed in its minutes the following

"There was discussion about the difference between the PEAK award process and the survey process. The survey deficiencies have been taken into account during the review of the applications. However, there have been instances where homes have received the PEAK award and then had bad surveys. The Advisory Committee agreed that the home should keep the award. *The survey has a different focus and isolated incidents at a home can happen.*"

Even the best homes in Kansas receive deficiencies.

Recently the Federal Government introduced a quality improvement initiative. In order to measure the improvements did CMS turn to the 2567 as an accurate gauge of quality? No, in fact they went to great lengths to develop a completely different measure for quality. The simple explanation for this is obvious. Widespread regional differences in interpretation and application of a uniform set of regulations did not lend itself to credible data.

In the end this issue boils down to fairness. The 2567 is a useful tool for surveyors to communicate their concerns to a facility. That is all. To use that document for something more than it was intended is unfair. It is unfair because my colleagues in the Bar will attempt to use it to paint a picture. They will use it to paint a picture that may not even apply to their client. They will use it to paint a picture that is distorted. The incentive is not truth, it is money.

Quite Frankly, the 2567 is required to be in my lobby at all times. It is summarized and put out on the Internet. I am not hiding from the document. However, to use it as evidence seems misleading. Any case that hinges on unrelated events recorded on a 2567 would seem to be a case that needs to be reconsidered.

