



To: Chairwoman Schmidt, and Members, Public Health and Welfare Committee
From: Rachel Monger, Vice President of Government Affairs
Date: January 18, 2018

Neutral Testimony on House Bill 2232

Thank you, Chairwoman and Members of the Committee. I am Rachel Monger, Vice President of Government Affairs for LeadingAge Kansas, the state association for not-for-profit aging services. We have 150 members across Kansas, which include not-for-profit nursing homes, retirement communities, hospital long-term care units, assisted living, homes plus, 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 elders each day.

HB 2232 is based upon a very similar law enacted seventeen years ago in Texas. We believe that if Kansas is to have an electronic monitoring statute for adult care homes, it should adhere strongly to the Texas law. The five other states that have passed electronic monitoring laws over the last decade have also closely based their laws on the Texas model.

We are testifying as neutral on House Bill 2232 in order to request an amendment based on language in the Texas model. The subject of electronic monitoring is a national conversation, and over the course of the last year we have had the opportunity to discuss the experiences and legal issues surrounding electronic monitoring cases. A common theme in those conversations was the use of heavily edited recordings in agency and court proceedings.

Edited and altered recordings may easily be used to mislead or mischaracterize the events being depicted. At the very least, it will leave out the opportunity to present the whole picture surrounding the occurrence in question. It is only ethical and fair to require that any electronic monitoring being used as evidence in a judicial or administrative proceeding be presented wholly intact and unaltered.

This type of requirement is not contained within the Texas law this bill is modeled on. However, it is in the Texas regulations surrounding the electronic monitoring law. Rather than hope for a regulation to address this issue, we are asking the committee to include the requirement within HB 2232.

We have attached to our testimony the amendment language we are requesting, and we hope committee members will give it serious consideration. LeadingAge Kansas believes that our proposed amendment maximizes resident rights and safety, while avoiding the many legal and ethical complications that accompany an issue like electronic monitoring of adult care home residents.

LeadingAge Kansas
Proposed Amendment to HB 2232

A court or administrative agency may not admit into evidence a tape or recording created through the use of covert monitoring or authorized electronic monitoring or take or authorize action based on the tape or recording unless:

- 1) the tape or recording shows the time and date the events on the tape or recording occurred, if the tape or recording is a video tape or recording;
- 2) the contents of the tape or recording have not been edited or artificially enhanced; and
- 3) any transfer of the contents of the tape or recording was done by a qualified professional and the contents were not altered, if the contents have been transferred from the original format to another technological format.