

Kansas Administrative Regulations

Kansas Department for Aging and Disability Services

Article 39.—Adult Care Homes

26-39-100. Definitions.

The following terms and definitions shall apply to all of the department's regulations governing adult care homes and their employees: (a) "Activities director" means an individual who meets at least one of the following requirements:

(1) Has a degree in therapeutic recreation;

(2) is licensed in Kansas as an occupational therapist or occupational therapy assistant;

(3) has a bachelor's degree in a therapeutic activity field in art therapy, horticultural therapy, music therapy, special education, or a related therapeutic activity field;

(4) is certified as a therapeutic recreation specialist or as an activities professional by a recognized accrediting body;

(5) has two years of experience in a social or recreational program within the last five years, one of which was full-time in an activities program in a health care setting; or

(6) has completed a course approved by the department in resident activities coordination and receives consultation from a therapeutic recreation specialist, an occupational therapist, an occupational therapy assistant, or an individual with a bachelor's degree in art therapy, music therapy, or horticultural therapy.

(b) "Addition" means an increase in the building area, aggregate floor area, or number of stories of an adult care home.

(c) "Administrator" means an individual who is responsible for the general administration of an adult care home, whether or not the individual has an ownership interest in the adult care home. Each administrator of an adult care home shall be licensed in accordance with K.S.A. 65-3501 et seq., and amendments thereto.

(d) "Adult care home" has the meaning specified in K.S.A. 39-923, and amendments thereto.

(e) "Adult day care" has the meaning specified in K.S.A. 39-923, and amendments thereto.

(f) "Advanced practice registered nurse" and "APRN" mean an RN who holds a license from the Kansas board of nursing to function as a professional nurse in an advanced role as defined by regulations adopted by the Kansas board of nursing.

(g) "Ambulatory resident" means any resident who is physically and mentally capable of performing the following without the assistance of another person:

(1) Getting in and out of bed; and

(2) walking between locations in the living environment.

(h) "Applicant" means any individual, firm, partnership, corporation, company, association, or joint stock association requesting a license to operate an adult care home.

(i) "Assisted living facility" has the meaning specified in K.S.A. 39-923, and amendments thereto.

(j) "Audiologist" means an individual who is licensed by the department as an audiologist.

(k) "Basement" means the part of a building that is below grade.

(l) "Biologicals" means medicinal preparations made from living organisms and their products, including serums, vaccines, antigens, and antitoxins.

(m) "Boarding care home" has the meaning specified in K.S.A. 39-923, and amendments thereto.

(n) "Case manager" means an individual assigned to a resident to provide assistance in access and coordination of information and services in a program authorized by the Kansas department for aging and disability services, the Kansas department for children and families, or the division of health care finance in the Kansas department of health and environment.

(o) "Change of ownership" means any transaction that results in a change of control over the capital assets of an adult care home.

(p) "Chemical restraint" means a medication or biological that meets the following conditions:

(1) Is used to control a resident's behavior or restrict a resident's freedom of movement; and

(2) is not a standard treatment for a resident's medical or psychiatric condition.

(q) "Clinical record" means the record that includes all the information and entries reflecting each resident's course of stay in an adult care home.

(r) "Concentrated livestock operation" means confined feeding facility, as defined in K.S.A. 65-171d, and amendments thereto.

(s) "Contaminated laundry" means any clothes or linens that have been soiled with body substances including blood, stool, urine, vomitus, or other potentially infectious material.

(t) "Controlled substance" means any medication, substance, or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, K.S.A. 65-4107, K.S.A. 65-4109, K.S.A. 65-4111, and K.S.A. 65-4113, and amendments thereto.

(u) "Day shift" means any eight-hour to 12-hour work period that occurs between the hours of 6 a.m. and 9 p.m.

(v) "Department" means Kansas department for aging and disability services.

(w) "Dietetic services supervisor" means an individual who meets one of the following requirements:

(1) Is licensed in Kansas as a dietitian;

(2) has an associate's degree in dietetic technology from a program approved by the American dietetic association;

(3) is a dietary manager who is certified by the certifying board for dietary managers of the association of nutrition and foodservice professionals; or

(4) has training and experience in dietetic services supervision and management that are determined by the Kansas department for aging and disability services to be equivalent in content to the requirement specified in paragraph (2) or (3) of this subsection.

(x) "Dietitian" means an individual who is licensed by the department as a dietitian.

(y) "Direct care staff" means the individuals employed by or working under contract for an adult care home who assist residents in activities of daily living. These activities may include the following:

- (1) Ambulating;
- (2) bathing;
- (3) bed mobility;
- (4) dressing;
- (5) eating;
- (6) personal hygiene;
- (7) toileting; and
- (8) transferring.

(z) "Director of nursing" means a position in a nursing facility or a nursing facility for mental health that is held by one or more individuals who meet the following requirements:

(1) Each individual shall be licensed as an RN.

(2) If only one individual serves in this position, the individual shall be employed at least 35 hours each week.

(3) If more than one individual serves in this position, the individuals shall be employed collectively for a total of at least 40 hours each week.

(4) Each individual shall have the responsibility, administrative authority, and accountability for the supervision of nursing care provided to residents in the nursing facility or the nursing facility for mental health.

(aa) "Full-time" means 35 or more hours each week.

(bb) "Health information management practitioner" means an individual who is certified as a registered health information administrator or a registered health information technician by the American health information management association.

(cc) "Home plus" has the meaning specified in K.S.A. 39-923, and amendments thereto.

(dd) "Interdisciplinary team" means the following group of individuals:

- (1) An RN with responsibility for the care of the residents; and
- (2) other appropriate staff, as identified by resident comprehensive assessments, who are responsible for the development of care plans for residents.

(ee) "Intermediate care facility for people with intellectual disability" has the meaning specified in K.S.A. 39-923, and amendments thereto.

(ff) "Legal representative" means an agent acting within the bounds of the agent's legal authority who meets any of the following criteria:

(1) Has been designated by a resident to serve as the resident's trustee, power of attorney, durable power of attorney, or power of attorney for health care decisions;

(2) is a court-appointed guardian or conservator authorized to act on behalf of the resident in accordance with K.S.A. 59-3051 et seq., and amendments thereto; or

(3) if the resident is a minor, is either of the following:

(A) A natural guardian, as defined in K.S.A. 59-3051 and amendments thereto; or

(B) a court-appointed guardian, conservator, trustee, or an individual or agency vested with custody of the minor pursuant to the revised Kansas code for care of children, K.S.A. 2012 Supp. 38-2201 through 38-2283 and amendments thereto, or the revised Kansas juvenile justice code, K.S.A. 2012 Supp. 38-2301 through 38-2387 and amendments thereto.

(gg) "Licensed mental health technician" means an individual licensed by the Kansas board of nursing as a licensed mental health technician.

(hh) "Licensed nurse" means an individual licensed by the Kansas board of nursing as a registered professional nurse or licensed practical nurse.

(ii) "Licensed practical nurse" and "LPN" mean an individual who is licensed by the Kansas board of nursing as a licensed practical nurse and is supervised by a registered professional nurse, in accordance with K.S.A. 65-1113 and amendments thereto.

(jj) "Licensee" means an individual, firm, partnership, association, company, corporation, or joint stock association authorized by a license obtained from the secretary to operate an adult care home.

(kk) "Medical care provider" means any of the following individuals:

(1) A physician licensed by the Kansas board of healing arts to practice medicine and surgery, in accordance with K.S.A. 65-2801 et seq. and amendments thereto;

(2) a physician assistant (PA) who is licensed by the Kansas board of healing arts, in accordance with K.S.A. 65-28a02 and amendments thereto, and who provides health care services under the direction and supervision of a responsible physician; or

(3) an APRN.

(ll) "Medication" means any "drug," as defined by K.S.A. 65-1626 and amendments thereto.

(mm) "Medication administration" means an act in which a single dose of a prescribed medication or biological is given by application, injection, inhalation, ingestion, or any other means to a resident by an authorized person in accordance with all laws and regulations governing the administration of medications and biologicals. Medication administration shall consist of the following:

- (1) Removing a single dose from a labeled container, including a unit-dose container;
- (2) verifying the medication and dose with the medical care provider's orders;
- (3) administering the dose to the resident; and
- (4) documenting the dose in the resident's clinical record.

(nn) "Medication aide" means an individual who is certified by the department as a medication aide according to K.A.R. 26-50-30 and is supervised by a licensed nurse.

(oo) "Medication dispensing" means the delivery of one or more doses of a medication by a licensed pharmacist or physician. The medication shall be dispensed in a container and labeled in compliance with state and federal laws and regulations.

(pp) "Non-ambulatory resident" means any resident who is not physically or mentally capable of performing the following without the assistance of another person:

- (1) Getting in and out of bed; and
- (2) walking between locations in the living environment.

(qq) "Nurse aide" means an individual who meets the following requirements:

- (1) Is certified as a nurse aide by the department and is listed on the Kansas nurse aide registry according to K.A.R. 26-50-20; and
- (2) is supervised by a licensed nurse.

(rr) "Nurse aide trainee" means an individual who is in the process of completing a nurse aide training program as specified in K.A.R. 26-50-20 or K.A.R. 26-50-24, is not certified by the department as a nurse aide, and is not listed on the Kansas nurse aide registry. There are two types of nurse aide trainee: nurse aide trainee I and nurse aide trainee II. These two terms are defined in K.A.R. 26-50-10.

(ss) "Nursing facility" has the meaning specified in K.S.A. 39-923, and amendments thereto.

(tt) "Nursing facility for mental health" has the meaning specified in K.S.A. 39-923, and amendments thereto.

(uu) "Nursing personnel" means all of the following:

- (1) RNs;
- (2) LPNs;
- (3) licensed mental health technicians in nursing facilities for mental health;
- (4) medication aides;
- (5) nurse aides;
- (6) nurse aide trainees II; and
- (7) paid nutrition assistants.

(vv) "Nursing unit" means a distinct area of a nursing facility serving not more than 60 residents and including the service areas and rooms described in K.A.R. 26-40-302 and K.A.R. 26-40-303.

(ww) "Occupational therapist" means an individual who is licensed with the Kansas board of healing arts as an occupational therapist.

(xx) "Occupational therapy assistant" means an individual who is licensed by the Kansas board of healing arts as an occupational therapy assistant.

(yy) "Operator" has the meaning specified in K.S.A. 39-923, and amendments thereto.

(zz) "Paid nutrition assistant" has the meaning specified in K.S.A. 39-923, and amendments thereto. In addition, each paid nutrition assistant shall meet the following requirements:

- (1) Have successfully completed a nutrition assistant course approved by the department;
- (2) provide assistance with eating to residents of an adult care home based on an assessment by the supervising licensed nurse, the resident's most recent minimum data set assessment or functional capacity screening, and the resident's current care plan or negotiated service agreement;

(3) provide assistance with eating to residents who do not have complicated eating problems, including difficulty swallowing, recurrent lung aspirations, and tube, parenteral, or intravenous feedings;

(4) be supervised by a licensed nurse on duty in the facility; and

(5) be able to contact the supervising licensed nurse verbally or on the resident call system for help in case of an emergency.

(aaa) "Personal care" means assistance provided to a resident to enable the resident to perform activities of daily living, including ambulating, bathing, bed mobility, dressing, eating, personal hygiene, toileting, and transferring.

(bbb) "Pharmacist" has the meaning specified in K.S.A. 65-1626, and amendments thereto.

(ccc) "Physical restraint" means any method or any physical device, material, or equipment attached or adjacent to the resident's body and meeting the following criteria:

(1) Cannot be easily removed by the resident; and

(2) restricts freedom of movement or normal access to the resident's body.

(ddd) "Physical therapist" means an individual who is licensed by the Kansas board of healing arts as a physical therapist.

(eee) "Physical therapy assistant" means an individual who is certified by the Kansas board of healing arts as a physical therapy assistant.

(fff) "Physician" means a person licensed to practice medicine and surgery by the state board of healing arts.

(ggg) "Psychopharmacologic drug" means any medication prescribed with the intent of controlling mood, mental status, or behavior.

(hhh) "Registered professional nurse" and "RN" mean an individual who is licensed by the Kansas board of nursing as a registered professional nurse.

(iii) "Renovation" means a change to an adult care home that affects the building's structural integrity or life safety system.

(jjj) "Resident" has the meaning specified in K.S.A. 39-923, and amendments thereto.

(kkk) "Resident capacity" means the number of an adult care home's beds or adult day care slots, as licensed by the department.

(III) "Residential health care facility" has the meaning specified in K.S.A. 39-923, and amendments thereto.

(mmm) "Respite care" means the provision of services to a resident on an intermittent basis for periods of fewer than 30 days at any one time.

(nnn) "Restraint" means the control and limitation of a resident's movement by physical, mechanical, or chemical means.

(ooo) "Sanitization" means effective bactericidal treatment by a process that reduces the bacterial count, including pathogens, to a safe level on utensils and equipment.

(ppp) "Secretary" means secretary of the Kansas department for aging and disability services.

(qqq) "Self-administration of medication" means the determination by a resident of when to take a medication or biological and how to apply, inject, inhale, ingest, or take a medication or biological by any other means, without assistance from nursing staff.

(rrr) "Significant change in condition" means a decline or improvement in a resident's mental, psychosocial, or physical functioning that requires a change in the resident's comprehensive plan of care or negotiated service agreement.

(sss) "Social services designee" means an individual who meets at least one of the following qualifications:

(1) Is licensed by the Kansas behavioral sciences regulatory board as a social worker;

(2) has a bachelor's degree in a human service field, including social work, sociology, special education, rehabilitation counseling, or psychology, and receives supervision from a licensed social worker; or

(3) has completed a course in social services coordination approved by the department and receives supervision from a licensed social worker on a regular basis.

(ttt) "Social worker" means an individual who is licensed by the Kansas behavioral sciences regulatory board as a social worker.

(uuu) "Speech-language pathologist" means an individual who is licensed by the department as a speech-language pathologist.

(vvv) "Working day" means any day other than a Saturday, Sunday, or day designated as a holiday by the United States congress or the Kansas legislature or governor.

(Authorized by K.S.A. 39-932 and K.S.A. 2012 Supp. 39-1901 and 39-1908; implementing K.S.A. 2012 Supp. 39-923, K.S.A. 39-932, and K.S.A. 2012 Supp. 39-1908; effective May 22, 2009; amended Jan. 7, 2011; amended, T26-6-28-13, June 28, 2013; amended Oct. 25, 2013.)

***** Authenticated Kansas Administrative Regulation *****