

Kansas Administrative Regulations

Department of Health and Environment

Article 39.—Licensure of Adult Care Homes

28-39-144. Definitions.

The following definitions shall apply to all adult care homes except nursing facilities for mental health and intermediate care facilities for the mentally retarded.

(a) "Activities director" means an individual who meets one of the following requirements:

- (1) Has a degree in therapeutic recreation;
- (2) has two years of experience in a social or recreational program within the last five years, one of which was full-time in a patient activities program in a health care setting;
- (3) is registered in Kansas as an occupational therapist or occupational therapy assistant;
- (4) 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; or
- (5) 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) "Administrator" means any individual who is charged with the general administration of a nursing facility, nursing facility for mental health, assisted living facility, or residential health care facility, 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.

(c) "Adult day care" means an adult care home that meets the definition in K.S.A. 39-923, and amendments thereto.

(d) "Adult care home" means any of the following facilities licensed by the secretary of health and environment:

- (1) A nursing facility;
- (2) a nursing facility for mental health;
- (3) an intermediate care facility for the mentally retarded;
- (4) an assisted living facility;
- (5) a residential health care facility;
- (6) a home-plus facility;
- (7) an adult day care facility; or
- (8) a boarding care home.

(e) "Advanced registered nurse practitioner" means an individual who is certified by the Kansas board of nursing as an advanced registered nurse practitioner.

(f) "Alteration" means any addition, modification, or modernization in the structure or usage of a facility.

(g) "Ambulatory resident" means any resident who is physically and mentally capable of performing the following:

- (1) Getting in and out of bed; and
- (2) walking in a normal path to safety in a reasonable period of time without the assistance of another person.

(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" means an adult care home that meets the definition found in K.S.A. 39-923, and amendments thereto.

(j) "Audiologist" means an individual who is licensed by the Kansas department of health and environment as an audiologist.

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

(l) "Boarding care home" means an adult care home that meets the definition found in K.S.A. 39-923, and amendments thereto.

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

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

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

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

(q) "Department" means the Kansas department of health and environment.

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

(1) Is licensed in the state of 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 board of the dietary managers' association; or

(4) has training and experience in dietetic services supervision and management that are determined by the secretary of health and environment to be equivalent in content paragraph (2) or (3) of this subsection.

(s) "Dietitian" means an individual who is licensed by the Kansas department of health and environment as a dietitian.

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

(1) Grooming;

(2) eating;

(3) toileting;

(4) transferring; and

(5) ambulation.

(t) "Director of nursing" means an individual who meets the following criteria:

(1) Is licensed in Kansas as a registered nurse;

(2) is employed full-time in a nursing facility; and

(3) has the responsibility, administrative authority, and accountability for the supervision of nursing care provided to residents in a nursing facility.

(u) "Drug administration" means an act in which a single dose of a prescribed drug or biological is given by 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 drugs and biologicals. Drug administration shall entail the following:

(1) Removing an individual dose from a labeled container, including a unit-dose container;

(2) verifying the drug and dose with the physician's orders;

(3) administering the dose to the proper resident; and

(4) documenting the dose in the resident's clinical record.

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

(x) "Full-time" means 35 or more hours per week.

(y) "Health information management practitioner" means an individual who has met the "standards for initial certification" as a registered record administrator or an accredited record technician adopted by the American medical record association, as in effect on October 1, 1990, and hereby adopted by reference.

(z) "Home-plus" means an adult care home that meets the definition of K.S.A. 39-923, and amendments thereto.

(aa) "Interdisciplinary team" means the following:

(1) A registered nurse 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.

(bb) "Legal representative" means an individual person who has been appointed by a court of law as a guardian or has been selected by a resident in a durable power of attorney for health care decisions.

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

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

(ee) "Licensed practical nurse" means an individual who is licensed by the Kansas board of nursing as a licensed practical nurse.

(ff) "Licensed social worker" means an individual who is licensed by the Kansas board of behavioral sciences as a social worker.

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

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

(ii) "Medication aide" means an individual who has completed a training program in medication administration as prescribed in K.A.R. 28-39-169 through K.A.R. 28-39-171.

(jj) "Non-ambulatory resident" means any resident who is not physically or mentally capable of getting in and out of bed and walking a normal path to safety without the assistance of another person.

(kk) "Nurse aide" means an individual who has a nurse aide certificate issued by the Kansas department of health and environment according to K.A.R. 28-39-165.

(ll) "Nurse aide trainee" means an individual who is in the process of completing a nurse aide training program as prescribed in K.A.R. 28-39-165 or K.A.R. 28-39-167 and has not been issued a nurse aide certificate by the Kansas department of health and environment.

(mm) "Nursing facility" means an adult care home that meets the definition found in K.S.A. 39-923(a)(2), and amendments thereto.

(nn) "Nursing facility for mental health" means an adult care home that meets the definition of K.S.A. 39-923 (a)(3), and amendments thereto.

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

- (1) Registered professional nurses;
- (2) licensed practical nurses;
- (3) licensed mental health technicians in nursing facilities for mental health;
- (4) medication aides;
- (5) nurse aides; and
- (6) nurse aide trainees.

(pp) "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. 28-39-162.

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

(rr) "Occupational therapy assistant" means an individual who is registered with the Kansas board of healing arts as an occupational therapy assistant.

(ss) "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.

(tt) "Physical therapist" means an individual who is registered with the Kansas board of healing arts as a physical therapist.

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

(vv) "Physician" means an individual who meets the requirements of the Kansas board of healing arts to practice medicine or osteopathy.

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

(xx) "Registered professional nurse" means an individual who is licensed by the Kansas state board of nursing as a registered professional nurse.

(yy) "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.

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

(aaa) "Self-administration of drugs" means the determination by the resident of when to take a drug and the application or ingestion of the drug by the resident without assistance from nursing staff.

(bbb) "Significant change in condition" means a decline or improvement in a resident's mental, psychosocial, or physical functioning that would result in the need for amendment of the resident's comprehensive plan of care or negotiated service agreement.

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

(1) Is licensed by the board of behavioral science as a social worker;

(2) has a bachelor's degree in a human service field, including 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.

(ddd) "Speech language pathologist" means an individual who is licensed by the Kansas department of health and environment as a speech-language pathologist.

(Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997; amended Oct. 8, 1999; amended Nov. 26, 2001.)

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