
Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2018 Supp. 39-923 is hereby amended to read as follows: 39-923. (a) As used in this act:

(1) "Adult care home" means any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential healthcare facility, home plus, boarding care home and adult day care facility; all of which are classifications of adult care homes and are required to be licensed by the secretary for aging and disability services.

(2) "Nursing facility" means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care to compensate for activities of daily living limitations.

(3) "Nursing facility for mental health" means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care and special mental health services to compensate for activities of daily living limitations.

(4) "Intermediate care facility for people with intellectual disability" means any place or facility operating 24 hours a day, seven days a week, caring for four or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments caused by intellectual disability or related conditions, need services to compensate for activities of daily living limitations.

(5) "Assisted living facility" means any place or facility caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may
need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes apartments for residents and provides or coordinates a range of services including personal care or supervised nursing care available 24 hours a day, seven days a week, for the support of resident independence. The provision of skilled nursing procedures to a resident in an assisted living facility is not prohibited by this act. Generally, the skilled services provided in an assisted living facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(6) "Residential healthcare facility" means any place or facility, or a contiguous portion of a place or facility, caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes individual living units and provides or coordinates personal care or supervised nursing care available on a 24-hour, seven-days-a-week basis for the support of resident independence. The provision of skilled nursing procedures to a resident in a residential healthcare facility is not prohibited by this act. Generally, the skilled services provided in a residential healthcare facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(7) "Home plus" means any residence or facility caring for not more than 12 individuals not related within the third degree of relationship to the operator or owner by blood or marriage unless the resident in need of care is approved for placement by the secretary for children and families, and who, due to functional impairment, needs personal care and may need supervised nursing care to compensate for activities of daily living limitations. The level of care provided to residents shall be determined by preparation of the staff and rules and regulations developed by the Kansas department for aging and disability services. An adult care home may convert a portion of one wing of the facility to a not less than five-bed and not more than 12-bed home plus facility provided that the home plus facility remains separate from the adult care home, and each facility must remain contiguous. Any home plus that provides care for more than eight individuals after the effective date of this act shall adjust staffing personnel and resources as necessary to meet residents' needs in order to maintain the current level of nursing care standards. Personnel of any home plus who provide services for residents with dementia shall be required to take annual dementia care training.

(8) "Boarding care home" means any place or facility operating 24 hours a day, seven days a week, caring for not more than 10 individuals not related within the third degree of relationship to the operator or owner
by blood or marriage and who, due to functional impairment, need supervision of activities of daily living but who are ambulatory and essentially capable of managing their own care and affairs.

(9) "Adult day care" means any place or facility operating less than 24 hours a day caring for individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment, need supervision of or assistance with activities of daily living.

(10) "Place or facility" means a building or any one or more complete floors of a building, or any one or more complete wings of a building, or any one or more complete wings and one or more complete floors of a building, and the term "place or facility" may include multiple buildings.

(11) "Skilled nursing care" means services performed by or under the immediate supervision of a registered professional nurse and additional licensed nursing personnel. Skilled nursing includes administration of medications and treatments as prescribed by a licensed physician or dentist; and other nursing functions which require substantial nursing judgment and skill based on the knowledge and application of scientific principles.

(12) "Supervised nursing care" means services provided by or under the guidance of a licensed nurse with initial direction for nursing procedures and periodic inspection of the actual act of accomplishing the procedures; administration of medications and treatments as prescribed by a licensed physician or dentist and assistance of residents with the performance of activities of daily living.

(13) "Resident" means all individuals kept, cared for, treated, boarded or otherwise accommodated in any adult care home.

(14) "Person" means any individual, firm, partnership, corporation, company, association or joint-stock association, and the legal successor thereof.

(15) "Operate an adult care home" means to own, lease, sublease, establish, maintain, conduct the affairs of or manage an adult care home, except that for the purposes of this definition the word "own" and the word "lease" shall not include hospital districts, cities and counties which hold title to an adult care home purchased or constructed through the sale of bonds.

(16) "Licensing agency" means the secretary for aging and disability services.

(17) "Skilled nursing home" means a nursing facility.

(18) "Intermediate nursing care home" means a nursing facility.

(19) "Apartment" means a private unit which includes, but is not limited to, a toilet room with bathing facilities, a kitchen, sleeping, living and storage area and a lockable door.
(20) "Individual living unit" means a private unit which includes, but is not limited to, a toilet room with bathing facilities, sleeping, living and storage area and a lockable door.

(21) "Operator" means an individual registered pursuant to the operator registration act, K.S.A. 2018 Supp. 39-973 et seq., and amendments thereto, who may be appointed by a licensee to have the authority and responsibility to oversee an assisted living facility or residential healthcare facility with fewer than 61 residents, a home plus or adult day care facility.

(22) "Activities of daily living" means those personal, functional activities required by an individual for continued well-being, including, but not limited to, eating, nutrition, dressing, personal hygiene, mobility and toileting.

(23) "Personal care" means care provided by staff to assist an individual with, or to perform activities of daily living.

(24) "Functional impairment" means an individual has experienced a decline in physical, mental and psychosocial well-being and as a result, is unable to compensate for the effects of the decline.

(25) "Kitchen" means a food preparation area that includes a sink, refrigerator and a microwave oven or stove.

(26) The term "intermediate personal care home" for purposes of those individuals applying for or receiving veterans' benefits means residential healthcare facility.

(27) "Paid nutrition assistant" means an individual who is paid to feed residents of an adult care home, or who is used under an arrangement with another agency or organization, who is trained by a person meeting nurse aide instructor qualifications as prescribed by 42 C.F.R. § 483.152, 42 C.F.R. § 483.160 and 42 C.F.R. § 483.35(h), and who provides such assistance under the supervision of a registered professional or licensed practical nurse.

(28) "Medicaid program" means the Kansas program of medical assistance for which federal or state moneys, or any combination thereof, are expended, or any successor federal or state, or both, health insurance program or waiver granted thereunder.

(29) "Licensee" means any person or persons acting jointly or severally who are licensed by the secretary for aging and disability services pursuant to the adult care home licensure act, K.S.A. 39-923 et seq., and amendments thereto.

(30) "Insolvent" means that the adult care home, or any individual or entity that operates an adult care home or appears on the adult care home license, has liabilities that exceed the value of the adult care home's, individual's or entity's assets, has stopped paying debts in the ordinary course of business or is unable to pay debts as they come due.
(b) The term "adult care home"—shall does not include institutions operated by federal or state governments, except institutions operated by the director of the Kansas commission on veterans affairs office, hospitals or institutions for the treatment and care of psychiatric patients, child care facilities, maternity centers, hotels, offices of physicians or hospices—which that are certified to participate in the medicare program under 42 code of federal regulations, chapter IV, C.F.R. § 418.1 et seq., and amendments thereto, and—which that provide services only to hospice patients, or centers approved by the centers for medicare and medicaid services as a program for all-inclusive care for the elderly (PACE) under 42 code of federal regulations, chapter IV, part C.F.R. § 460 et seq., and amendments thereto, which that provides services only to PACE participants.

(c) Nursing facilities in existence on the effective date of this act changing licensure categories to become residential healthcare facilities shall be required to provide private bathing facilities in a minimum of 20% of the individual living units.

(d) Facilities licensed under the adult care home licensure act on the day immediately preceding the effective date of this act shall continue to be licensed facilities until the annual renewal date of such license and may renew such license in the appropriate licensure category under the adult care home licensure act subject to the payment of fees and other conditions and limitations of such act.

(e) Nursing facilities with less than 60 beds converting a portion of the facility to residential healthcare shall have the option of licensing for residential healthcare for less than six individuals but not less than 10% of the total bed count within a contiguous portion of the facility.

(f) The licensing agency may by rule and regulation change the name of the different classes of homes when necessary to avoid confusion in terminology and the agency may further amend, substitute, change and in a manner consistent with the definitions established in this section, further define and identify the specific acts and services—which that shall fall within the respective categories of facilities so long as the above categories for adult care homes are used as guidelines to define and identify the specific acts.

Sec. 2. K.S.A. 2018 Supp. 39-927 is hereby amended to read as follows: 39-927. (a) An application for a license to operate an adult care home shall be made in writing to the licensing agency upon forms provided by the licensing agency and shall be in such form and shall contain such information as the licensing agency shall require, which may include if applicable:

(1) A detailed projected budget for the first 12 months of operation, prepared in accordance with generally accepted accounting principles and certified by the principal officer of the applicant, accompanied by
evidence of access to a sufficient amount of working capital required to
operate the adult care home in accordance with the budget, in the form of
cash on deposit, a line of credit, applicant's equity, or any combination
thereof;

(2) a list of each current or previously licensed facility in Kansas or
any other state, territory or country or the District of Columbia in which
the applicant has or previously had any percentage of ownership in the
operations or the real property of the facility; and

(3) affirmative evidence of the applicant's ability to comply with such
reasonable standards and rules and regulations as are adopted under the
provisions of this act.

(b) The application shall be signed by the person or persons seeking
to operate an adult care home, as specified by the licensing agency, or by a
duly authorized agent of any person so specified.

(c) Any nonprofit corporation operating a nursing facility for people
with intellectual disability—which that, on the effective date of this act,
includes more than one residential building located on one site or on
contiguous sites may apply for a license to operate a new nursing facility
for people with intellectual disability—which that includes more than one
residential building located on one site or on contiguous sites and may
apply for one license for each residential building located on the new site,
except that total resident population at any such location shall not exceed
75 residents.

Sec. 3. K.S.A. 2018 Supp. 39-931 is hereby amended to read as
follows: 39-931. (a) Whenever the licensing agency finds a substantial
failure to comply with the requirements, standards or rules and regulations
established under this act—or that a receiver has been appointed under
K.S.A. 39-958, and amendments thereto, it, the licensing agency shall
make an order denying, suspending or revoking the license after notice and
a hearing in accordance with the provisions of the Kansas administrative
procedure act, K.S.A. 77-501 et seq., and amendments thereto. Any
applicant or licensee who is aggrieved by the order may appeal such order
in accordance with the provisions of the Kansas judicial review act, K.S.A.
77-601 et seq., and amendments thereto.

(b) Except as provided in subsection (c), whenever the licensing
agency denies, suspends or revokes a license under this section, the
applicant or licensee shall not be eligible to apply for a new license or
reinstatement of a license for a period of two years from the date of denial,
suspension or revocation, and whenever the district court appoints a
receiver under K.S.A. 39-958, and amendments thereto, the applicant or
licensee shall not be eligible to apply for a new license or reinstatement of
a license for a period of 10 years from the date the receivership action was
terminated under K.S.A. 39-963, and amendments thereto.
(c) (1) Any applicant or licensee issued an emergency order by the licensing agency denying, suspending or revoking a license under this section may apply for a new license or reinstatement of a license at any time upon submission of a written waiver of any right conferred upon such applicant or licensee under the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto, and the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto, to the licensing agency in a settlement agreement or other manner as approved by the licensing agency.

(2) Any licensee issued a notice of intent to take disciplinary action by the licensing agency under this section may enter into a settlement agreement or other manner as approved by the licensing agency, with the licensing agency, at any time upon submission of a written waiver of any right conferred upon such licensee under the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto, and the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto.

(d) No person shall operate an intermediate care facility for people with intellectual disability, as defined in K.S.A. 39-923, and amendments thereto, of five beds or less, as defined by subsection (a)(4) of K.S.A. 39-923, and amendments thereto, within this state unless such person:

(A) Is issued a license by the licensing agency on or before January 1, 2012; or

(B) participated in the medicaid program as an intermediate care facility for people with intellectual disability of five beds or less, on or before January 1, 2012.

Sec. 4. K.S.A. 2018 Supp. 39-931a is hereby amended to read as follows: 39-931a. (a) As used in this section, the term "person" means any person who is an applicant for a license to operate an adult care home or who is the licensee of an adult care home and who has any direct or indirect ownership interest of 25% or more in an adult care home or who is the owner, in whole or in part, of any mortgage, deed of trust, note or other obligation secured, in whole or in part, by such facility or any of the property or assets of such facility, or who, if the facility is organized as a corporation, is an officer or director of the corporation, or who, if the facility is organized as a partnership, is a partner.

(b) Pursuant to K.S.A. 39-931, and amendments thereto, the licensing agency may deny a license to any person and may suspend or revoke the license of any person who:

(1) Has willfully or repeatedly violated any provision of law or rules and regulations adopted pursuant to article 9 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto;

(2) has had a license to operate an adult care home denied, suspended,
revoked or limited, has been censured or has had other disciplinary action
taken, or an application for a license denied, by the proper licensing
authority of another state, territory, District of Columbia or other country; a
certified copy of the record of such action of the other jurisdiction being
conclusive evidence thereof;
(3) has failed or refused to comply with the medicaid requirements of
title XIX of the social security act, or medicaid regulations under chapter
IV of title 42 of the code of federal regulations, a certified copy of the
record of such action being conclusive evidence thereof;
(4) has failed or refused to comply with the medicare requirements of
chapter 7 of title 42 of the United States code, or medicare regulations
under chapter IV of title 42 of the code of federal regulations, a certified
copy of the record of such action being conclusive evidence thereof;
(5) has been convicted of a felony;
(6) has failed to assure that nutrition, medication and treatment of
residents, including the use of restraints, are in accordance with acceptable
medical practices;
(7) has aided, abetted, sanctioned or condoned any violation of law or
rules and regulations adopted pursuant to article 9 of chapter 39 of the
Kansas Statutes Annotated, and amendments thereto; or
(8) has willfully admitted a person to a nursing facility in violation of
K.S.A. 39-968, and amendments thereto.
Sec. 5. K.S.A. 39-955 is hereby amended to read as follows: 39-955.
The application for receivership shall be filed in the Shawnee county
district court or the district court in the county where the adult care home
is located. The application shall be verified and set forth the specific
reasons therefor.
Sec. 6. K.S.A. 39-956 is hereby amended to read as follows: 39-956.
The applicant shall serve those persons set forth in K.S.A. 39-954, and
amendments thereto, with copies of the application. Service of process
shall be as provided for under the code of civil procedure. The applicant
shall also send five (5) copies a copy of the application for receivership to
the adult care home. The adult care home shall post the copies of the
application in a conspicuous place within the adult care home.
Sec. 7. K.S.A. 39-957 is hereby amended to read as follows: 39-957.
A party shall file an answer to the application within five (5) days after the
service of process of the application upon such person.
Sec. 8. K.S.A. 2018 Supp. 39-958 is hereby amended to read as
follows: 39-958. (a) The application for receivership shall be given priority
by the district court and shall be heard no later than the seventh day
following the filing of the application answer or other responsive
pleading. A continuance of no more than 14 days may be granted by the
district court for good cause. The district court shall give all parties who
have filed an answer the opportunity to present evidence pertaining to the
application. If the district court finds that the facts warrant the granting of
the application, the court shall appoint the secretary for aging and
disability services or the designee of the secretary as receiver to operate
the home.

(b) Upon the appointment of a receiver under this section, the
receiver shall be granted a license by the licensing agency to operate an
adult care home as provided under the provisions of article 9 of chapter 39
of the Kansas Statutes Annotated, and amendments thereto. The provisions
of article 9 of chapter 39 of the Kansas Statutes Annotated, and
amendments thereto, relating to inspection prior to granting a license to
operate an adult care home and relating to payment of license fees shall
not apply to a license granted to a receiver under this section, and such
license shall remain in effect during the existence of the receivership and
shall expire on the termination of the receivership. The receiver shall make
application for the license on forms provided for this purpose by the
licensing agency.

Sec. 9. K.S.A. 39-959 is hereby amended to read as follows: 39-959.
(a) A receiver appointed in accordance with the provisions of this act shall
have the following powers and duties:

(1) Conduct the day to day business operations of the adult care
home;
(2) operate the adult care home to provide safe and adequate
healthcare for the residents of the adult care home;
(3) correct or eliminate any deficiency in the adult care home that
concerns the health, safety, nutrition or sanitation of the residents of the
adult care home and that is life threatening or endangering;
(4) provide for the orderly transfer of all residents of the adult care
home to other adult care homes or make other provisions for such
residents' continued safety and healthcare, as necessary;
(5) be entitled to the immediate use of all proceeds of any accounts
receivable to discharge the powers and duties of the receiver;
(6) collect incoming payments from all sources and apply such
payments to costs incurred in the performance of the receiver's powers
and duties, including compensation of the receiver, if any;
(7) enter into or terminate contracts as necessary to carry out the
receiver's powers and duties and incur expenses for individual items for
repairs, improvements or supplies, without being subject to any
requirements to procure competitive bids established by law;
(8) repay expenditures of the receiver from moneys appropriated to
the Kansas department for aging and disability services for purposes set
forth in K.S.A. 39-954 et seq., and amendments thereto, if incoming
payments from the operation of the adult care home exceed the costs
incurred by the receiver in the performance of the receiver's powers and
duties; and
(9) other powers and duties as authorized or imposed by the district
court.
(b) If incoming payments from the operation of the adult care home
exceed the costs incurred by the receiver in the performance of the
receiver's powers and duties, the receiver may:
(1) Pay post-receivership quality care assessments as established
under Kansas law;
(2) reimburse the owner or licensee, as appropriate, a fair monthly
rental for the adult care home, taking into account all relevant factors,
including the condition of such adult care home and set-offs arising from
improvements made by the receiver; and
(e)(3) give fair compensation to the owner or licensee, as appropriate,
for all property taken or used during the course of the receivership if such
person has not previously received compensation for the property being
taken or used;
(d) correct or eliminate any deficiency in the adult care home that
concerns the health, safety, nutrition, or sanitation of the residents of the
adult care home and is life threatening or endangering;
(e) enter into contracts as necessary to carry out his or her duties as
receiver and incur expenses for individual items of repairs, improvements
or supplies without the procurement of competitive bids, if otherwise
required by law, where the total amount of such individual item does not
exceed five hundred dollars ($500);
(f) collect incoming payments from all sources and apply them to the
costs incurred in the performance of his or her functions as receiver
including the compensation of the receiver, if any;
(g) honor all existing leases, mortgages, chattel mortgages and
security interests;
(h) operate the adult care home so as to provide safe and adequate
health care for the residents of the adult care home;
(i) provide for the orderly transfer of all residents in the adult care
home to other adult care homes or make other provisions for their
continued safety and health care, as necessary;
(j) other powers and duties as authorized or imposed by the district
court.
Sec. 10. K.S.A. 2018 Supp. 39-960 is hereby amended to read as
follows: 39-960. (a) The secretary for aging and disability services, upon
request of a receiver, may authorize expenditures from moneys
appropriated for purposes set forth in this act if incoming payments from
the operation of the adult care home are less than the cost incurred by the
receiver in the performance of the receiver's functions as receiver or for
purposes of initial operating expenses of the receivership.

(b) Any payments made by the secretary for aging and disability services pursuant to this section shall be owed by the owner, operator or licensee, including any individuals or entities that appear on the license issued by the secretary pursuant to the adult care home licensure act, and repaid to the secretary for aging and disability services when the receivership is terminated pursuant to K.S.A. 39-963, and amendments thereto, and until repaid shall constitute a lien against all non-exempt personal and real property of the owner or licensee.

Sec. 11. K.S.A. 2018 Supp. 39-961 is hereby amended to read as follows: 39-961. (a) The personnel and facilities of the Kansas department for aging and disability services shall be available to the receiver for the purposes of carrying out the receiver's duties as receiver as authorized by the secretary for aging and disability services. 

(b) The Kansas department for aging and disability services shall itemize and keep a ledger showing costs of personnel and other expenses establishing the receivership and assisting the receiver and such amount shall be owed by the owner, operator or licensee to the Kansas department for aging and disability services. Such department shall submit a bill for such expenses to the receiver for inclusion in the receiver's final accounting. Any amount so billed and until repaid shall constitute a lien against all nonexempt personal and real property of the owner, operator or licensee, including any individuals or entities that appear on the license issued by the secretary pursuant to the adult care home licensure act.

Sec. 12. K.S.A. 2018 Supp. 39-963 is hereby amended to read as follows: 39-963. (a) The court shall terminate the receivership only under any of the following circumstances:

(1) Twenty-four months after the date on which the receivership was ordered;

(2) a new license, other than the license granted to the receiver under K.S.A. 39-958, and amendments thereto, has been granted to operate the adult care home; or

(3) at such time as all of the residents in the adult care home have been provided alternative modes of healthcare, either in another adult care home or otherwise.

(b) (1) At the time of termination of the receivership, the receiver shall render a full and complete accounting to the district court and shall make disposition of surplus money at the direction of the district court.

(2) The court may make such additional orders as are appropriate to recover the expenses and costs to the Kansas department for aging and disability services and the secretary for children and families incurred pursuant to K.S.A. 39-960 or 39-961, and amendments thereto.


Sec. 14. This act shall take effect and be in force from and after its publication in the statute book.