

As Amended by House Committee
HOUSE BILL No. 2751

Proposed amendment to HB 2751
Committee on Public Health and Wellness
March 13, 2024
Prepared by the Office of the Revisor of Statutes

By Committee on Health and Human Services

Requested by Representative Haswood on behalf of the Kansas Department for
Aging and Disability Services

2-7

1 AN ACT concerning the Kansas department for aging and disability
2 services; relating to licensure of providers of disability services;
3 authorizing the department to condition or restrict a license therefor;
4 granting the secretary authority to grant regulation waivers unrelated to
5 health and safety; **adding a definition of day service provider;**
6 authorizing correction orders and civil fines to be appealed to the
7 secretary; amending K.S.A. 39-2004, **39-2009**, 39-2013 and 39-2016
8 and repealing the existing sections.
9

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

11 Section 1. K.S.A. 39-2004 is hereby amended to read as follows: 39-
12 2004. (a) The secretary may adopt rules and regulations necessary to carry
13 out the provisions of this act. Such rules and regulations may prescribe
14 minimum standards and requirements relating to: The location, building,
15 size of centers, facilities and hospitals; environmental standards; capacity;
16 the individuals allowed; the types of services offered; the records to be
17 kept; medication management; policies and procedures specific to centers,
18 facilities, hospitals and providers; the kind and frequency of reports and
19 inventories to be made; and may generally establish such requirements as
20 may be deemed necessary to protect the health, safety, hygiene, welfare
21 and comfort of the individuals.

22 (b) The authority granted to the secretary under this act is in addition
23 to other statutory authority the secretary has to require the licensing and
24 operation of centers, facilities, hospitals and providers and is not to be
25 construed to limit any of the powers and duties of the secretary under
26 article 59 of chapter 75 of the Kansas Statutes Annotated, and amendments
27 thereto.

28 (c) *Notwithstanding any other provision of law to the contrary, the*
29 *secretary may waive a requirement of the rules and regulations adopted*
30 *under this act if the secretary finds that the waiver of the regulatory*
31 *requirement is in the public interest and will not detrimentally affect the*
32 *life, safety, health or welfare of any person receiving care or treatment in a*
33 *center, facility or hospital licensed under this act or an individual*
34 *receiving services from a provider licensed under this act.*

1
2 Sec. 2. K.S.A. 39-2009 is hereby amended to read as follows: 39-
3 2009. (a) As used in this section:

4 (1) "Applicant" means an individual who applies for employment
5 with a center, facility, hospital or a provider of services or applies to
6 work for an employment agency or as an independent contractor that
7 provides staff to a center, facility, hospital or a provider of services.

8 (2) "Completion of the sentence" means the last day of the entire
9 term of incarceration imposed by a sentence, including any term that
10 is deferred, suspended or subject to parole, probation, diversion,
11 community corrections, fines, fees, restitution or any other imposed
12 sentencing requirements.

13 (3) "Department" means the Kansas department for aging and
14 disability services.

15 (4) "Direct access" means work that involves an actual or
16 reasonable expectation of one-on-one interaction with a consumer or a
17 consumer's property, personally identifiable information, medical
18 records, treatment information or financial information.

19 (5) "Direct supervision" means that a supervisor is physically
20 present within an immediate distance to a supervisee and is available
21 to provide constant direction, feedback and assistance to a client and
22 the supervisee.

23 (6) "Employment agency" means an organization or entity that
24 has a contracted relationship with a center, hospital, facility or
25 provider of services to provide staff with direct access to consumers.

26 (7) "Independent contractor" means an organization, entity,
27 agency or individual that provides contracted workers or services to a
28 center, facility, hospital or provider of services.

29 (8) "Day service provider" means a provider of day services for
30 development in self-help, recreational skills and work skills to individuals
31 on the home and community-based services intellectual and developmental-

32 disability program waiver licensed by the department or a separate and
33 distinct division of an organization, that provides day services for
34 development in self-help, recreational skills and work skills to individuals
35 on the home and community-based services intellectual and developmental-

36 disability program waiver licensed by the department. "Day services
37 provider" also means the provision of pre-vocational services that are
38 aimed at preparing a home and community-based services intellectual and

39 developmental disability waiver participant for paid or unpaid
40 employment but are not job-task oriented, including teaching concepts
41 related to compliance, attendance, task completion, problem solving and
42 safety, as provided in 42 C.F.R. § 440.180.

43 (b) (1) No licensee shall knowingly operate a center, facility,
44

support
social,

for adults with intellectual or developmental
disabilities that is licensed by the department or a
separate and distinct dedicated division of a provider
of day support services for development in self-help,
social, recreational and work skills for adults with
intellectual or developmental disabilities licensed by
the department