

**HOUSE BILL No. 2147**

By Committee on Aging and Long Term Care

2-4

1 AN ACT concerning adult care homes, relating to the definition of a home  
2 plus residence or facility; amending K.S.A. 2010 Supp. 39-923 and  
3 repealing the existing section.  
4

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

6 Section 1. K.S.A. 2010 Supp. 39-923 is hereby amended to read as  
7 follows: 39-923. (a) As used in this act:

8 (1) "Adult care home" means any nursing facility, nursing facility for  
9 mental health, intermediate care facility for the mentally retarded, assisted  
10 living facility, residential health care facility, home plus, boarding care  
11 home and adult day care facility; all of which *are* classifications of adult  
12 care homes *and* are required to be licensed by the secretary of aging.

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

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

24 (4) "Intermediate care facility for the mentally retarded" means any  
25 place or facility operating 24 hours a day, seven days a week, caring for  
26 six or more individuals not related within the third degree of relationship  
27 to the administrator or owner by blood or marriage and who, due to  
28 functional impairments caused by mental retardation or related conditions,  
29 need services to compensate for activities of daily living limitations.

30 (5) "Assisted living facility" means any place or facility caring for six  
31 or more individuals not related within the third degree of relationship to  
32 the administrator, operator or owner by blood or marriage and who, by  
33 choice or due to functional impairments, may need personal care and may  
34 need supervised nursing care to compensate for activities of daily living  
35 limitations and in which the place or facility includes apartments for  
36 residents and provides or coordinates a range of services including

1 personal care or supervised nursing care available 24 hours a day, seven  
2 days a week, for the support of resident independence. The provision of  
3 skilled nursing procedures to a resident in an assisted living facility is not  
4 prohibited by this act. Generally, the skilled services provided in an  
5 assisted living facility shall be provided on an intermittent or limited term  
6 basis, or if limited in scope, a regular basis.

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

21 (7) "Home plus" means any residence or facility caring for not more  
22 than ~~12~~~~eight~~ individuals not related within the third degree of relationship  
23 to the operator or owner by blood or marriage unless the resident in need  
24 of care is approved for placement by the secretary of the department of  
25 social and rehabilitation services, and who, due to functional impairment,  
26 needs personal care and may need supervised nursing care to compensate  
27 for activities of daily living limitations. The level of care provided *to*  
28 residents shall be determined by preparation of the staff and rules and  
29 regulations developed by the department on aging. An adult care home  
30 may convert a portion of one wing of the facility to a not less than five-bed  
31 and not more than ~~12-bed~~~~eight-bed~~ home plus facility provided that the  
32 home plus facility remains separate from the adult care home, and each  
33 facility must remain contiguous. ***Personnel of any home plus who provide  
34 services for residents with dementia shall be required to take dementia  
35 care training.***

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

42 (9) "Adult day care" means any place or facility operating less than  
43 24 hours a day caring for individuals not related within the third degree of

1 relationship to the operator or owner by blood or marriage and who, due to  
2 functional impairment, need supervision of or assistance with activities of  
3 daily living.

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

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

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

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

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

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

31 (16) "Licensing agency" means the secretary of aging.

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

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

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

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

40 (21) "Operator" means an individual who operates an assisted living  
41 facility or residential health care facility with fewer than 61 residents, a  
42 home plus or adult day care facility and has completed a course approved  
43 by the secretary of health and environment on principles of assisted living

1 and has successfully passed an examination approved by the secretary of  
2 health and environment on principles of assisted living and such other  
3 requirements as may be established by the secretary of health and  
4 environment by rules and regulations.

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

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

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

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

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

19 (27) "Paid nutrition assistant" means an individual who is paid to feed  
20 residents of an adult care home, or who is used under an arrangement with  
21 another agency or organization, who is trained by a person meeting nurse  
22 aide instructor qualifications as prescribed by 42 C.F.R. § 483.152, 42  
23 C.F.R. § 483.160 and paragraph (h) of 42 C.F.R. § 483.35, ~~in effect on~~  
24 ~~October 27, 2003~~, and who provides such assistance under the supervision  
25 of a registered professional or licensed practical nurse.

26 (b) The term "adult care home" shall not include institutions operated  
27 by federal or state governments, except institutions operated by the Kansas  
28 commission on veterans affairs, hospitals or institutions for the treatment  
29 and care of psychiatric patients, child care facilities, maternity centers,  
30 hotels, offices of physicians or hospices which are certified to participate  
31 in the medicare program under 42 code of federal regulations, chapter IV,  
32 section 418.1 *et seq.*, and amendments thereto, and which provide services  
33 only to hospice patients.

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

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

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

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

12 Sec. 2. K.S.A. 2010 Supp. 39-923 is hereby repealed.

13 Sec. 3. This act shall take effect and be in force from and after its  
14 publication in the statute book.  
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