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

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

Section 1. K.S.A. 2010 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 the mentally retarded, assisted
living facility, residential health care 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 of aging.

(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 the mentally retarded" 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 caused by mental retardation 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 health care 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, seven-day-a-week basis for the support of resident
independence. The provision of skilled nursing procedures to a resident in
a residential health care facility is not prohibited by this act. Generally, the
skilled services provided in a residential health care 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 of the department of
social and rehabilitation services, 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 department on aging. 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, eight-bed home plus facility provided that the
home plus facility remains separate from the adult care home, and each
facility must remain contiguous. Personnel of any home plus who provide
services for residents with dementia shall be required to take 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, 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 of aging.

(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 who operates an assisted living facility or residential health care facility with fewer than 61 residents, a home plus or adult day care facility and has completed a course approved by the secretary of health and environment on principles of assisted living.
and has successfully passed an examination approved by the secretary of
health and environment on principles of assisted living and such other
requirements as may be established by the secretary of health and
environment by rules and regulations.

(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,
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 health care 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 paragraph (h) of 42 C.F.R. § 483.35, in effect on
October 27, 2003, and who provides such assistance under the supervision
of a registered professional or licensed practical nurse.

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

(c) Nursing facilities in existence on the effective date of this act
changing licensure categories to become residential health care facilities
shall be required to provide private bathing facilities in a minimum of 20%
behalf 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 health care shall have the option of licensing for
residential health care 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 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. 2010 Supp. 39-923 is hereby repealed.
Sec. 3. This act shall take effect and be in force from and after its
publication in the statute book.