

As Amended by Senate Committee

Session of 2022

SENATE BILL No. 453

By Committee on Public Health and Welfare

2-7

1 AN ACT concerning ~~adult care homes~~; relating to ~~unlicensed employees~~
2 ~~certified aides working in adult care homes~~; requiring ~~unlicensed~~
3 ~~employee certified aide~~ training courses to be taught and evaluated by
4 professional licensed nurses; requiring a demonstration of skills to
5 successfully complete training courses; ~~allowing simulation~~
6 ~~experiences to be used as part of training courses~~; amending K.S.A. 39-
7 936 and 65-5115 and repealing the existing sections.
8

health professions and practices;

unlicensed employees

unlicensed employee

requiring the board of nursing to report to certain legislative committees on the number and nature of complaints received;

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

10 Section 1. K.S.A. 39-936 is hereby amended to read as follows: 39-
11 936. (a) The presence of each resident in an adult care home shall be
12 covered by a statement provided at the time of admission, or prior thereto,
13 setting forth the general responsibilities and services and daily or monthly
14 charges for such responsibilities and services. Each resident shall be
15 provided with a copy of such statement, with a copy going to any
16 individual responsible for payment of such services and the adult care
17 home shall keep a copy of such statement in the resident's file. No such
18 statement shall be construed to relieve any adult care home of any
19 requirement or obligation imposed upon it by law or by any requirement,
20 standard or rule and regulation adopted pursuant thereto.

New Section 1. On or before January 9, 2023, and on or before the first day of each regular session of the legislature thereafter, the board of nursing shall submit a report to the house of representatives standing committee on health and human services and the senate standing committee on public health and welfare, or any successor committees thereto, on the number and nature of complaints filed, investigated or charged pursuant to K.S.A. 65-1120(b), and amendments thereto, in the prior calendar year concerning any person licensed, certified, registered or otherwise regulated by the board of nursing. Such reports shall not include any personally identifiable information or any information that is confidential or otherwise restricted from disclosure under the open records act or any other provision of law.

21 (b) A qualified person ~~or persons~~ shall be in attendance at all times
22 ~~upon when~~ residents ~~receiving~~ receive accommodation, board, care,
23 training or treatment in adult care homes. The licensing agency may
24 establish necessary standards and rules and regulations prescribing the
25 number, qualifications, training, standards of conduct and integrity for
26 such qualified person ~~or persons~~ attendant upon the residents.

And by renumbering sections accordingly

27 (c) (1) The licensing agency shall require ~~unlicensed employees of~~
28 ~~certified aides working in~~ an adult care home, except an adult care home
29 licensed for the provision of services to people with intellectual disability
30 that has been granted an exception by the secretary for aging and disability
31 services upon a finding by the licensing agency that an ~~appropriate~~ training
32 program for ~~unlicensed employees certified aides~~ is in place for such adult
33 care home, ~~employed on and after the effective date of this act~~ who
34 provide direct, individual care to residents and who do not administer
35 medications to residents and who have not completed a course of
36 education and training relating to resident care and treatment approved by

unlicensed employees

approved

nurse

at least

1 the secretary for aging and disability services or are not participating in
2 such a course ~~on the effective date of this act~~ to complete successfully 40
3 hours of training in basic resident care skills. Any ~~unlicensed person~~
4 ~~certified aide~~ who has not completed 40 hours of training ~~relating to~~
5 ~~resident care and treatment~~ approved by the secretary for aging and
6 disability services shall not provide direct, individual care to residents.

unlicensed employees

the certified nurse aide

7 (A) ~~Each instructor of such training course shall be licensed and in~~
8 ~~good standing to practice in this state as a registered professional nurse or~~
9 ~~a licensed practical nurse. An instructor with multistate licensure privilege~~
10 ~~shall satisfy this requirement.~~

[stricken material in lines 7 through 11]

11 (B) The 40 hours of training ~~shall be supervised by a registered~~
12 ~~professional nurse and the content and administration thereof shall comply~~
13 ~~with rules and regulations adopted by the secretary for aging and disability~~
14 ~~services.~~ The 40 hours of training may be prepared and administered by an
15 adult care home or by any other qualified ~~person~~, and may be conducted on
16 the premises of the adult care home. The 40 hours of training required in
17 this section shall be a part of ~~any course of education and training~~ required
18 by the secretary for aging and disability services under subsection (c)(2).

and remaining hours in the certified nurse aide training shall be performed under the general supervision of a course supervisor. The course supervisor shall be defined in rules and regulations and approved by the secretary for aging and disability services. As used in this subparagraph, "supervision" means the same as defined in K.S.A. 65-1165, and amendments thereto

course sponsor

an approved certified nurse aide training course

19 (C) Training for paid nutrition assistants shall consist of at least eight
20 hours of instruction, at a minimum, that meets the requirements of 42
21 C.F.R. § 483.160.

22 (2) The licensing agency may require ~~unlicensed employees of~~
23 ~~certified aides working in~~ an adult care home, except an adult care home
24 licensed for the provision of services to people with intellectual disability
25 that has been granted an exception by the secretary for aging and disability
26 services upon a finding by the licensing agency that an appropriate training
27 program for ~~unlicensed employees certified aides~~ is in place for such adult
28 care home, who provide direct, individual care to residents and who do not
29 administer medications to residents and who do not meet the definition of
30 paid nutrition assistant under K.S.A. 39-923(a)(27), and amendments
31 thereto, after 90 days of employment to successfully complete an approved
32 course of instruction and an examination relating to resident care and
33 treatment as a condition to continued employment by an adult care home.

(B) Each instructor under the supervision of a course supervisor of the certified nurse aide training course shall be licensed to practice in Kansas and in good standing. As used in this subparagraph, "in good standing" includes the possession of a license, certificate or registration that is subject to probation or non-disciplinary conditions, limitations or restrictions, but does not include a license, certificate or registration that is revoked, canceled or surrendered. If the records of the Kansas department for aging and disability services reflect that an individual has a prohibiting offense, such license, certificate or registration shall not be considered "in good standing." Any license, certificate or registration that is subject to disciplinary conditions, limitations or restrictions shall remain subject to such conditions, limitations or restrictions.

or subject to pending license-related disciplinary action

34 (A) A course of instruction may be prepared and administered by any
35 adult care home or by any other qualified person. A course of instruction
36 prepared and administered by an adult care home may be conducted on the
37 premises of the adult care home that prepared and that will administer the
38 course of instruction. ~~Simulation experiences may be used in the clinical~~
39 ~~instruction portions of a training course. If the training course is~~
40 ~~conducted in two parts, simulation experiences are limited to half of the~~
41 ~~clinical instruction hours.~~

nurse

42 (B) As evidence of successful completion of the training course, such
43 ~~unlicensed employees certified aides~~ shall demonstrate competency in a

unlicensed employees

1 *list of skills that are identified and prescribed by the secretary for aging*
2 *and disability services. The skills demonstration shall be evaluated by a*
3 *registered professional nurse licensed, including multistate licensure*
4 *privilege, and in good standing in this state. Such registered professional*
5 *nurse shall have at least one year of licensed nurse experience providing*
6 *care for the elderly or chronically ill in a healthcare setting.*

approved by the secretary for aging and disability services. As used in this
subparagraph, "in good standing" includes the possession of a license, certificate or
registration that is subject to probation or non-disciplinary conditions, limitations or
restrictions, but does not include a license, certificate or registration that is revoked,
canceled or surrendered. If the records of the Kansas department for aging and
disability services reflect that an individual has a prohibiting offense, such license,
certificate or registration shall not be considered "in good standing." Any license,
certificate or registration that is subject to disciplinary conditions, limitations or
restrictions shall remain subject to such conditions, limitations or restrictions

7 (3) The licensing agency shall not require ~~unlicensed employees of~~
8 ~~certified aides~~ **working in** an adult care home who provide direct,
9 individual care to residents and who do not administer medications to
10 residents to enroll in any particular approved course of instruction as a
11 condition to the taking of an examination, but the secretary for aging and
12 disability services shall prepare guidelines for the preparation and
13 administration of courses of instruction and shall approve or disapprove
14 courses of instruction.

unlicensed employees

or subject to pending license-related disciplinary action

15 (4) ~~Unlicensed employees of~~ ~~certified aides~~ **working in** adult care
16 homes who provide direct, individual care to residents and who do not
17 administer medications to residents may enroll in any approved course of
18 instruction and upon completion of the approved course of instruction
19 shall be eligible to take an examination. The examination shall be:

Unlicensed employees

20 (A) Prescribed by the secretary for aging and disability services, ~~shall~~
21 ~~be~~;

22 (B) reasonably related to the duties performed by ~~unlicensed~~
23 ~~employees of~~ ~~certified aides~~ **working in** adult care homes who provide
24 direct, individual care to residents and who do not administer medications
25 to residents; and

unlicensed employees

26 ~~shall be~~ (C) the same examination given by the secretary for aging
27 and disability services to all ~~unlicensed employees of~~ ~~certified aides~~
28 **working in** adult care homes who provide direct, individual care to
29 residents and who do not administer medications.

30 (3)(5) The secretary for aging and disability services shall fix, charge
31 and collect a fee to cover all or any part of the costs of the licensing
32 agency under this subsection. The fee shall be fixed by rules and
33 regulations of the secretary for aging and disability services. The fee shall
34 be remitted to the state treasurer in accordance with the provisions of
35 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
36 remittance, the state treasurer shall deposit the entire amount in the state
37 treasury to the credit of the health occupations credentialing fee fund
38 created by K.S.A. 39-979, and amendments thereto.

39 (4)(6) The secretary for aging and disability services shall establish a
40 state registry containing information about ~~unlicensed employees of~~
41 ~~certified aides working in~~ adult care homes who provide direct, individual
42 care to residents and who do not administer medications in compliance
43 with the requirements pursuant to PL 100-203, subtitle C, as amended

nurse

1 November 5, 1990.

2 ~~(5)(7)~~ No adult care home shall use an individual ~~as an unlicensed~~
3 ~~employee of the~~ **working as a certified aide in an** adult care home who
4 provides direct, individual care to residents and who does not administer
5 medications unless the facility has inquired of the state registry as to
6 information contained in the registry concerning the individual.

nurse

7 ~~(6)(8) (A) Beginning July 1, 1993,~~ The adult care home ~~must shall~~
8 require any ~~unlicensed employee of the~~ **certified aide working in an** adult
9 care home ~~who to complete an approved refresher course if such~~
10 ~~employee:~~

- 11 (i) Provides direct, individual care to residents ~~and who;~~
- 12 (ii) does not administer medications; ~~and who~~
- 13 (iii) since passing the examination required under paragraph (2) ~~of~~
14 ~~this subsection,~~ has had a continuous period of 24 consecutive months
15 ~~during none of which~~ **when the unlicensed employee certified aide has**
16 **not** provided direct, individual care to residents ~~to complete an approved~~
17 ~~refresher course.~~

18 (B) The secretary for aging and disability services shall prepare
19 guidelines for the preparation and administration of refresher courses and
20 shall approve or disapprove courses.

21 (d) Any person who has been employed ~~as an unlicensed employee of~~
22 **a certified aide working in** an adult care home in another state may be so
23 employed in this state without an examination if the secretary for aging
24 and disability services determines that such other state requires training or
25 examination, or both, for such employees at least equal to that required by
26 this state.

27 (e) All medical care and treatment shall be given under the direction
28 of a ~~physician authorized~~ *person licensed by the state board of healing*
29 *arts to practice under the laws of this state medicine and surgery* and shall
30 be provided promptly as needed.

31 (f) No adult care home shall require as a condition of admission to or
32 as a condition to continued residence in the adult care home that a person
33 change from a supplier of medication needs of their choice to a supplier of
34 medication selected by the adult care home. Nothing in this subsection ~~(f)~~
35 shall be construed to abrogate or affect any agreements entered into prior
36 to the effective date of this act between the adult care home and any person
37 seeking admission to or resident of the adult care home.

38 (g) Except in emergencies as defined by rules and regulations of the
39 licensing agency and except as otherwise authorized under federal law, no
40 resident may be transferred from or discharged from an adult care home
41 involuntarily unless the resident or legal guardian of the resident has been
42 notified in writing at least 30 days in advance of a transfer or discharge of
43 the resident.