

1 **As Amended by House Committee**

2 *Session of 2002*

3
4 **HOUSE BILL No. 2681**

5
6 By Committee on Appropriations

7
8 1-24

9
10 AN ACT concerning home plus; increasing the number of individuals to
11 eight; amending K.S.A. 39-923 and repealing the existing section.
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13 *Be it enacted by the Legislature of the State of Kansas:*

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

16 (1) "Adult care home" means any nursing facility, nursing facility for
17 mental health, intermediate care facility for the mentally retarded, as-
18 sisted living facility, residential health care facility, home plus, boarding
19 care home and adult day care facility, all of which classifications of adult
20 care homes are required to be licensed by the secretary of health and
21 environment.

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

27 (3) "Nursing facility for mental health" means any place or facility
28 operating 24 hours a day, seven days a week caring for six or more indi-
29 viduals not related within the third degree of relationship to the admin-
30 istrator or owner by blood or marriage and who, due to functional im-
31 pairments, need skilled nursing care and special mental health services
32 to compensate for activities of daily living limitations.

33 (4) "Intermediate care facility for the mentally retarded" means any
34 place or facility operating 24 hours a day, seven days a week caring for
35 six or more individuals not related within the third degree of relationship
36 to the administrator or owner by blood or marriage and who, due to
37 functional impairments caused by mental retardation or related condi-
38 tions need services to compensate for activities of daily living limitations.

39 (5) "Assisted living facility" means any place or facility caring for six
40 or more individuals not related within the third degree of relationship to
41 the administrator, operator or owner by blood or marriage and who, by
42 choice or due to functional impairments, may need personal care and
43 may need supervised nursing care to compensate for activities of daily

1 living limitations and in which the place or facility includes apartments
2 for residents and provides or coordinates a range of services including
3 personal care or supervised nursing care available 24 hours a day, seven
4 days a week for the support of resident independence. The provision of
5 skilled nursing procedures to a resident in an assisted living facility is not
6 prohibited by this act. Generally, the skilled services provided in an as-
7 sisted living facility shall be provided on an intermittent or limited term
8 basis, or if limited in scope, a regular basis.

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

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

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

43 (9) “Adult day care” means any place or facility operating less than

1 24 hours a day caring for individuals not related within the third degree
2 of relationship to the operator or owner by blood or marriage and who,
3 due to functional impairment need supervision of or assistance with ac-
4 tivities of daily living.

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

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

16 (12) “Supervised nursing care” means services provided by or under
17 the guidance of a licensed nurse with initial direction for nursing proce-
18 dures and periodic inspection of the actual act of accomplishing the pro-
19 cedures; administration of medications and treatments as prescribed by
20 a licensed physician or dentist and assistance of residents with the per-
21 formance of activities of daily living.

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

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

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

33 (16) “Licensing agency” means the secretary of health and
34 environment.

35 (17) “Skilled nursing home” means a nursing facility.

36 (18) “Intermediate nursing care home” means a nursing facility.

37 (19) “Apartment” means a private unit which includes, but is not
38 limited to, a toilet room with bathing facilities, a kitchen, sleeping, living
39 and storage area and a lockable door.

40 (20) “Individual living unit” means a private unit which includes, but
41 is not limited to, a toilet room with bathing facilities, sleeping, living and
42 storage area and a lockable door.

43 (21) “Operator” means an individual who operates an assisted living

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

7 (22) “Activities of daily living” means those personal, functional ac-
8 tivities required by an individual for continued well-being, including but
9 not limited to eating, nutrition, dressing, personal hygiene, mobility,
10 toileting.

11 (23) “Personal care” means care provided by staff to assist an indi-
12 vidual with, or to perform activities of daily living.

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

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

18 (26) The term “intermediate personal care home” for purposes of
19 those individuals applying for or receiving veterans’ benefits means resi-
20 dential health care facility.

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

29 (c) Facilities licensed under K.S.A. 39-1501 *et seq.* and amendments
30 thereto or K.S.A. 75-3307b and amendments thereto or ~~K.S.A. 39-923~~
31 *under this section* as an intermediate personal care home or with license
32 applications on file with the licensing agency as intermediate personal
33 care homes on or before January 1, 1995, shall have the option of becom-
34 ing licensed as either an assisted living facility or a residential health care
35 facility without being required to add kitchens or private baths.

36 (d) Nursing facilities in existence on the effective date of this act
37 changing licensure categories to become residential health care facilities
38 shall be required to provide private bathing facilities in a minimum of
39 20% of the individual living units.

40 (e) Facilities licensed under the adult care home licensure act on the
41 day immediately preceding the effective date of this act shall continue to
42 be licensed facilities until the annual renewal date of such license and
43 may renew such license in the appropriate licensure category under the

1 adult care home licensure act subject to the payment of fees and other
2 conditions and limitations of such act.

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

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

15 Sec. 2. K.S.A. 39-923 is hereby repealed.

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

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