

HOUSE BILL No. 2905

By Committee on Appropriations

2-20

9 AN ACT concerning health care; relating to nurse aides, medication
10 aides and home health aides; transferring certain powers and duties to
11 the board of nursing; background checks; amending K.S.A. 65-1,120,
12 65-1,121, 65-1124, 65-5115 and 74-1106 and K.S.A. 2003 Supp. 39-
13 936, 39-970 and 65-5117 and repealing the existing sections.

14

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

16 New Section 1. (a) The licensing agency of an adult care home shall
17 require unlicensed employees of such adult care home, employed on and
18 after the effective date of this act who provide direct individual care to
19 residents, do not administer medications to residents and have not com-
20 pleted a course of education and training relating to resident care and
21 treatment approved by the board of nursing or are not participating in
22 such a course on the effective date of this act to complete successfully 40
23 hours of training in basic resident care skills. Any unlicensed person who
24 has not completed 40 hours of training relating to resident care and treat-
25 ment approved by the board of nursing shall not provide direct individual
26 care to residents. The 40 hours of training shall be supervised by a reg-
27 istered professional nurse and the content and administration thereof
28 shall comply with rules and regulations adopted by the board of nursing.
29 The 40 hours of training may be prepared and administered by an adult
30 care home or by any other qualified person and may be conducted on the
31 premises of the adult care home. The 40 hours of training required in
32 this section shall be a part of any course of education and training required
33 by the board of nursing under subsection (b).

34 (b) The licensing agency of an adult care home may require unli-
35 censed employees of such adult care home who provide direct individual
36 care to residents and do not administer medications to residents, after 90
37 days of employment, to successfully complete an approved course of in-
38 struction and an examination relating to resident care and treatment as a
39 condition to continued employment by such adult care home. A course
40 of instruction may be prepared and administered by any adult care home
41 or by any other qualified person. A course of instruction prepared and
42 administered by an adult care home may be conducted on the premises
43 of the adult care home which prepared and which will administer the

1 course of instruction. The licensing agency shall not require unlicensed
2 employees of an adult care home who provide direct individual care to
3 residents and do not administer medications to residents to enroll in any
4 particular approved course of instruction as a condition to the taking of
5 an examination, but the board of nursing by rules and regulations shall
6 establish the criteria for the preparation and administration of courses of
7 instruction and shall approve or disapprove courses of instruction. Unli-
8 censed employees of adult care homes who provide direct individual care
9 to residents and do not administer medications to residents may enroll in
10 any approved course of instruction and upon successful completion of the
11 approved course of instruction shall be eligible to take and pass an ex-
12 amination prescribed by rules and regulations of the board of nursing.
13 The examination prescribed by the board of nursing shall be reasonably
14 related to the duties performed by unlicensed employees of adult care
15 homes who provide direct individual care to residents and do not admin-
16 ister medications to residents and shall be the same examination given by
17 the board of nursing to all unlicensed employees of adult care homes who
18 provide direct individual care to residents and do not administer
19 medications.

20 (c) The board of nursing shall fix, charge and collect a fee to cover
21 all or any part of the costs of the board under this section. The fee shall
22 be fixed by rules and regulations of the board of nursing but shall not
23 exceed \$30 for renewal, endorsement or reinstatement of a license or
24 certificate for nurse aides and medication aides. All fees collected under
25 this section shall be remitted to the state treasurer in accordance with
26 the provisions of K.S.A. 74-1108 and 74-1109, and amendments thereto.

27 (d) The board of nursing shall establish a state registry containing
28 information about unlicensed employees of adult care homes who provide
29 direct individual care to residents and who do not administer medications
30 in compliance with the requirements pursuant to PL 100-203, Subtitle
31 C, as amended November 5, 1990, and trained and certified medication
32 aides pursuant to K.S.A. 65-1,121, and amendments thereto. Such registry
33 shall perform the function of keeping track of the continuing education
34 credits of such aides, ensuring the valid certification of such practicing
35 aides and maintaining background check information concerning such
36 aides.

37 (e) No adult care home shall use an individual as an unlicensed em-
38 ployee of the adult care home who provides direct individual care to
39 residents and does not administer medications unless the facility has in-
40 quired of the board of nursing as to information contained in the registry
41 concerning the individual.

42 (f) Beginning July 1, 1993, the adult care home must require any
43 unlicensed employee of the adult care home who provides direct individ-

1 ual care to residents, does not administer medications and since passing
2 the examination required under subsection (b) of this section has had a
3 continuous period of 24 consecutive months during which the unlicensed
4 employee provided no direct individual care to residents to complete an
5 approved refresher course. The board of nursing by rules and regulations
6 shall establish the criteria for the preparation and administration of re-
7 fresher courses and shall approve or disapprove courses.

8 (g) Any person who has been employed as a nurse aide or medication
9 aide employee of an adult care home in another state may be so employed
10 in this state without an examination if the board of nursing determines
11 that such other state requires training or examination, or both, for such
12 employees at least equal to that required by this state.

13 (h) An adult care home licensed for the provision of services to the
14 mentally retarded which has been granted an exception by the secretary
15 of health and environment upon a finding by the licensing agency that an
16 appropriate training program for unlicensed employees is in place for
17 such adult care home shall be excepted from subsections (a) and (b) of
18 this section.

19 New Sec. 2. All powers, duties and functions of the secretary of
20 health and environment concerning the instruction, examination and cer-
21 tification of nurse aides and medication aides are hereby transferred to
22 and conferred upon the board of nursing.

23 New Sec. 3. (a) Except as otherwise provided by this act, the board
24 of nursing shall be the successor in every way to the duties and functions
25 of the secretary of health and environment concerning the instruction,
26 examination and certification of nurse aides and medication aides in which
27 the same were vested prior to the effective date of this act. Every act
28 performed in the exercise of such powers, duties and functions by or
29 under the authority of the board of nursing shall have the same force and
30 effect as if performed by the secretary of health and environment in which
31 such powers, duties and functions were vested prior to the effective date
32 of this act.

33 (b) Except as otherwise provided by this act, whenever the secretary
34 of health and environment, or words of like effect concerning the instruc-
35 tion, examination and certification of nurse aides and medication aides is
36 referred to or designated by a statute, contract or other document, such
37 reference or designation shall be deemed to apply to the board of nursing.

38 (c) All rules and regulations of the department of health and envi-
39 ronment concerning the instruction, examination and certification of
40 nurse aides and medication aides on the effective date of this act shall
41 continue to be effective and shall be deemed to be duly adopted rules
42 and regulations of the board of nursing until revised, amended, revoked
43 or nullified by law.

1 New Sec. 4. (a) When any conflict arises as to the disposition of any
2 power, duty or function or the unexpended balance of any appropriation
3 concerning the instruction, examination and certification of nurse aides
4 and medication aides as a result of any abolition, transfer, attachment or
5 change made by or under authority of this act, such conflict shall be
6 resolved by the governor, whose decision shall be final.

7 (b) The board of nursing shall have legal custody of all records per-
8 taining to the instruction, examination and certification of nurse aides,
9 the instruction, examination and certification of medication aides and the
10 nurse aide and medication aide registry.

11 Sec. 5. K.S.A. 2003 Supp. 39-936 is hereby amended to read as fol-
12 lows: 39-936. (a) The presence of each resident in an adult care home
13 shall be covered by a statement provided at the time of admission, or
14 prior thereto, setting forth the general responsibilities and services and
15 daily or monthly charges for such responsibilities and services. Each res-
16 ident shall be provided with a copy of such statement, with a copy going
17 to any individual responsible for payment of such services and the adult
18 care home shall keep a copy of such statement in the resident's file. No
19 such statement shall be construed to relieve any adult care home of any
20 requirement or obligation imposed upon it by law or by any requirement,
21 standard or rule and regulation adopted pursuant thereto.

22 (b) A qualified person or persons shall be in attendance at all times
23 upon residents receiving accommodation, board, care, training or treat-
24 ment in adult care homes. The licensing agency may establish necessary
25 standards and rules and regulations prescribing the number, qualifica-
26 tions, training, standards of conduct and integrity for such qualified per-
27 son or persons attendant upon the residents.

28 ~~(c) (1) The licensing agency shall require unlicensed employees of~~
29 ~~an adult care home, except an adult care home licensed for the provision~~
30 ~~of services to the mentally retarded which has been granted an exception~~
31 ~~by the secretary of health and environment upon a finding by the licensing~~
32 ~~agency that an appropriate training program for unlicensed employees is~~
33 ~~in place for such adult care home, employed on and after the effective~~
34 ~~date of this act who provide direct individual care to residents and who~~
35 ~~do not administer medications to residents and who have not completed~~
36 ~~a course of education and training relating to resident care and treatment~~
37 ~~approved by the secretary of health and environment or are not partici-~~
38 ~~pating in such a course on the effective date of this act to complete suc-~~
39 ~~cessfully 40 hours of training in basic resident care skills. Any unlicensed~~
40 ~~person who has not completed 40 hours of training relating to resident~~
41 ~~care and treatment approved by the secretary of health and environment~~
42 ~~shall not provide direct individual care to residents. The 40 hours of train-~~
43 ~~ing shall be supervised by a registered professional nurse and the content~~

1 and administration thereof shall comply with rules and regulations
2 adopted by the secretary of health and environment. The 40 hours of
3 training may be prepared and administered by an adult care home or by
4 any other qualified person and may be conducted on the premises of the
5 adult care home. The 40 hours of training required in this section shall
6 be a part of any course of education and training required by the secretary
7 of health and environment under subsection (c)(2).

8 —(2) The licensing agency may require unlicensed employees of an
9 adult care home, except an adult care home licensed for the provision of
10 services to the mentally retarded which has been granted an exception
11 by the secretary of health and environment upon a finding by the licensing
12 agency that an appropriate training program for unlicensed employees is
13 in place for such adult care home, who provide direct individual care to
14 residents and who do not administer medications to residents after 90
15 days of employment to successfully complete an approved course of in-
16 struction and an examination relating to resident care and treatment as a
17 condition to continued employment by an adult care home. A course of
18 instruction may be prepared and administered by any adult care home or
19 by any other qualified person. A course of instruction prepared and ad-
20 ministered by an adult care home may be conducted on the premises of
21 the adult care home which prepared and which will administer the course
22 of instruction. The licensing agency shall not require unlicensed employ-
23 ees of an adult care home who provide direct individual care to residents
24 and who do not administer medications to residents to enroll in any par-
25 ticular approved course of instruction as a condition to the taking of an
26 examination, but the secretary of health and environment shall prepare
27 guidelines for the preparation and administration of courses of instruction
28 and shall approve or disapprove courses of instruction. Unlicensed em-
29 ployees of adult care homes who provide direct individual care to resi-
30 dents and who do not administer medications to residents may enroll in
31 any approved course of instruction and upon completion of the approved
32 course of instruction shall be eligible to take an examination. The exam-
33 ination shall be prescribed by the secretary of health and environment,
34 shall be reasonably related to the duties performed by unlicensed em-
35 ployees of adult care homes who provide direct individual care to resi-
36 dents and who do not administer medications to residents and shall be
37 the same examination given by the secretary of health and environment
38 to all unlicensed employees of adult care homes who provide direct in-
39 dividual care to residents and who do not administer medications.

40 —(3) The secretary of health and environment shall fix, charge and
41 collect a fee to cover all or any part of the costs of the licensing agency
42 under this subsection (c). The fee shall be fixed by rules and regulations
43 of the secretary of health and environment. The fee shall be remitted to

1 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
2 and amendments thereto. Upon receipt of each such remittance, the state
3 treasurer shall deposit the entire amount in the state treasury to the credit
4 of the state general fund.

5 ~~— (4) The secretary of health and environment shall establish a state~~
6 ~~registry containing information about unlicensed employees of adult care~~
7 ~~homes who provide direct individual care to residents and who do not~~
8 ~~administer medications in compliance with the requirements pursuant to~~
9 ~~PL 100-203, Subtitle C, as amended November 5, 1990.~~

10 ~~— (5) No adult care home shall use an individual as an unlicensed em-~~
11 ~~ployee of the adult care home who provides direct individual care to~~
12 ~~residents and who does not administer medications unless the facility has~~
13 ~~inquired of the state registry as to information contained in the registry~~
14 ~~concerning the individual.~~

15 ~~— (6) Beginning July 1, 1993, the adult care home must require any~~
16 ~~unlicensed employee of the adult care home who provides direct individ-~~
17 ~~ual care to residents and who does not administer medications and who~~
18 ~~since passing the examination required under paragraph (2) of this sub-~~
19 ~~section has had a continuous period of 24 consecutive months during~~
20 ~~none of which the unlicensed employee provided direct individual care~~
21 ~~to residents to complete an approved refresher course. The secretary of~~
22 ~~health and environment shall prepare guidelines for the preparation and~~
23 ~~administration of refresher courses and shall approve or disapprove~~
24 ~~courses.~~

25 ~~— (d) Any person who has been employed as an unlicensed employee~~
26 ~~of an adult care home in another state may be so employed in this state~~
27 ~~without an examination if the secretary of health and environment deter-~~
28 ~~mines that such other state requires training or examination, or both, for~~
29 ~~such employees at least equal to that required by this state.~~

30 ~~— (e) (c) All medical care and treatment shall be given under the di-~~
31 ~~rection of a physician authorized to practice under the laws of this state~~
32 ~~and shall be provided promptly as needed.~~

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

41 ~~(g) (e) Except in emergencies as defined by rules and regulations of~~
42 ~~the licensing agency and except as otherwise authorized under federal~~
43 ~~law, no resident may be transferred from or discharged from an adult~~

1 care home involuntarily unless the resident or legal guardian of the res-
2 ident has been notified in writing at least 30 days in advance of a transfer
3 or discharge of the resident.

4 ~~(h)~~ (f) No resident who relies in good faith upon spiritual means or
5 prayer for healing shall, if such resident objects thereto, be required to
6 undergo medical care or treatment.

7 New Sec. 6. The administrator of an adult care home shall inquire
8 of the secretary of health and environment concerning a background
9 check on unlicensed and uncertified employees of the adult care home
10 who do not provide direct individual care to residents and who do not
11 administer medications to residents. Such administrator shall keep a reg-
12 istry of such information in the administrator's office. No adult care home
13 shall use an individual as an unlicensed and uncertified employee of the
14 adult care home unless the administrator has inquired regarding such
15 individuals background and such individual has not violated any of the
16 provisions of K.S.A. 39-970, and amendments thereto.

17 Sec. 7. K.S.A. 2003 Supp. 39-970 is hereby amended to read as fol-
18 lows: 39-970. (a) (1) No person shall knowingly operate an adult care
19 home if, in the adult care home, there works any person who has been
20 convicted of or has been adjudicated a juvenile offender because of having
21 committed an act which if done by an adult would constitute the com-
22 mission of capital murder, pursuant to K.S.A. 21-3439 and amendments
23 thereto, first degree murder, pursuant to K.S.A. 21-3401 and amend-
24 ments thereto, second degree murder, pursuant to subsection (a) of
25 K.S.A. 21-3402 and amendments thereto, voluntary manslaughter, pur-
26 suant to K.S.A. 21-3403 and amendments thereto, assisting suicide pur-
27 suant to K.S.A. 21-3406 and amendments thereto, mistreatment of a de-
28 pendent adult, pursuant to K.S.A. 21-3437 and amendments thereto,
29 rape, pursuant to K.S.A. 21-3502 and amendments thereto, indecent lib-
30 erties with a child, pursuant to K.S.A. 21-3503 and amendments thereto,
31 aggravated indecent liberties with a child, pursuant to K.S.A. 21-3504 and
32 amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-
33 3506 and amendments thereto, indecent solicitation of a child, pursuant
34 to K.S.A. 21-3510 and amendments thereto, aggravated indecent solici-
35 tation of a child, pursuant to K.S.A. 21-3511 and amendments thereto,
36 sexual exploitation of a child, pursuant to K.S.A. 21-3516 and amend-
37 ments thereto, sexual battery, pursuant to K.S.A. 21-3517 and amend-
38 ments thereto, or aggravated sexual battery, pursuant to K.S.A. 21-3518
39 and amendments thereto, an attempt to commit any of the crimes listed
40 in this subsection (a)(1), pursuant to K.S.A. 21-3301, and amendments
41 thereto, a conspiracy to commit any of the crimes listed in this subsection
42 (a)(1), pursuant to K.S.A. 21-3302, and amendments thereto, or criminal
43 solicitation of any of the crimes listed in this subsection (a)(1), pursuant

1 to K.S.A. 21-3303, and amendments thereto, or similar statutes of other
2 states or the federal government.

3 (2) A person operating an adult care home may employ an applicant
4 who has been convicted of any of the following if five or more years have
5 elapsed since the applicant satisfied the sentence imposed or was dis-
6 charged from probation, a community correctional services program, pa-
7 role, postrelease supervision, conditional release or a suspended sentence;
8 or if five or more years have elapsed since the applicant has been finally
9 discharged from the custody of the commissioner of juvenile justice or
10 from probation or has been adjudicated a juvenile offender, whichever
11 time is longer: A felony conviction for a crime which is described in: (A)
12 Article 34 of chapter 21 of the Kansas Statutes Annotated and amend-
13 ments thereto, except those crimes listed in subsection (a)(1); (B) articles
14 35 or 36 of chapter 21 of the Kansas Statutes Annotated and amendments
15 thereto, except those crimes listed in subsection (a)(1) and K.S.A. 21-
16 3605 and amendments thereto; (C) an attempt to commit any of the
17 crimes listed in this subsection (a)(2) pursuant to K.S.A. 21-3301, and
18 amendments thereto; (D) a conspiracy to commit any of the crimes listed
19 in subsection (a)(2) pursuant to K.S.A. 21-3302, and amendments thereto;
20 (E) criminal solicitation of any of the crimes listed in subsection (a)(2)
21 pursuant to K.S.A. 21-3303, and amendments thereto; or (F) similar stat-
22 utes of other states or the federal government.

23 (b) No person shall operate an adult care home if such person has
24 been found to be in need of a guardian or conservator, or both as provided
25 in K.S.A. 2003 Supp. 59-3050 through 59-3095, and amendments thereto.
26 The provisions of this subsection shall not apply to a minor found to be
27 in need of a guardian or conservator for reasons other than impairment.

28 (c) The secretary of health and environment shall have access to any
29 criminal history record information in the possession of the Kansas bureau
30 of investigation regarding *unlicensed and noncertified employees and the*
31 *board of nursing shall have access to any criminal history record infor-*
32 *mation in the possession of the Kansas bureau of investigation regarding*
33 *employees who are certified nurse aides or medication aides and unli-*
34 *censed and noncertified employees in training to become a certified nurse*
35 *aide or medication aide regarding felony convictions, convictions under*
36 *K.S.A. 21-3437, 21-3517 and 21-3701, and amendments thereto, adjudi-*
37 *cations of a juvenile offender which if committed by an adult would have*
38 *been a felony conviction, and adjudications of a juvenile offender for an*
39 *offense described in K.S.A. 21-3437, 21-3517 and 21-3701, and amend-*
40 *ments thereto, concerning persons working in an adult care home. The*
41 *secretary and the board of nursing shall have access to these records for*
42 *the purpose of determining whether or not the adult care home meets*
43 *the requirements of this section. The Kansas bureau of investigation may*

1 charge to the department of health and environment *and the board of*
2 *nursing* a reasonable fee for providing criminal history record information
3 under this subsection.

4 (d) For the purpose of complying with this section, the operator of
5 an adult care home shall request from the department of health and
6 environment *and board of nursing* information regarding only felony con-
7 victions, convictions under K.S.A. 21-3437, 21-3517 and 21-3701, and
8 amendments thereto, adjudications of a juvenile offender which if com-
9 mitted by an adult would have been a felony conviction, and adjudications
10 of a juvenile offender for an offense described in K.S.A. 21-3437, 21-3517
11 and 21-3701, and amendments thereto, and which relates to a person
12 who works in the adult care home, or is being considered for employment
13 by the adult care home, for the purpose of determining whether such
14 person is subject to the provision of this section. For the purpose of
15 complying with this section, the operator of an adult care home shall
16 receive from any employment agency which provides employees to work
17 in the adult care home written certification that such employees are not
18 prohibited from working in the adult care home under this section. For
19 the purpose of complying with this section, information relating to con-
20 victions and adjudications by the federal government or to convictions
21 and adjudications in states other than Kansas shall not be required until
22 such time as the secretary of health and environment *or board of nursing*
23 determines the search for such information could reasonably be per-
24 formed and the information obtained within a two-week period. For the
25 purpose of complying with this section, a person who operates an adult
26 care home may hire an applicant for employment on a conditional basis
27 pending the results from the department of health and environment *or*
28 *board of nursing* of a request for information under this subsection. No
29 adult care home, the operator or employees of an adult care home or an
30 employment agency, or the operator or employees of an employment
31 agency, shall be liable for civil damages resulting from any decision to
32 employ, to refuse to employ or to discharge from employment any person
33 based on such adult care home's compliance with the provisions of this
34 section if such adult care home or employment agency acts in good faith
35 to comply with this section.

36 (e) The secretary of health and environment *and board of nursing*
37 shall charge each person requesting information under this section a fee
38 equal to cost, not to exceed \$10, for each name about which an infor-
39 mation request has been submitted to the department *or board of nursing*
40 under this section.

41 (f) (1) The secretary of health and environment *and the board of*
42 *nursing* shall provide each operator requesting information under this
43 section with the criminal history record information concerning felony

1 convictions and convictions under K.S.A. 21-3437, 21-3517 and 21-3701,
2 and amendments thereto, in writing and within three working days of
3 receipt of such information from the Kansas bureau of investigation. The
4 criminal history record information shall be provided regardless of
5 whether the information discloses that the subject of the request has been
6 convicted of an offense enumerated in subsection (a).

7 (2) When an offense enumerated in subsection (a) exists in the crim-
8 inal history record information, and when further confirmation regarding
9 criminal history record information is required from the appropriate court
10 of jurisdiction or Kansas department of corrections, the secretary *or board*
11 *of nursing* shall notify each operator that requests information under this
12 section in writing and within three working days of receipt from the Kan-
13 sas bureau of investigation that further confirmation is required. The sec-
14 retary *or board of nursing* shall provide to the operator requesting infor-
15 mation under this section information in writing and within three working
16 days of receipt of such information from the appropriate court of juris-
17 diction or Kansas department of corrections regarding confirmation re-
18 garding of the criminal history record information.

19 (3) Whenever the criminal history record information reveals that the
20 subject of the request has no criminal history on record, the secretary *or*
21 *board of nursing* shall provide notice to each operator requesting infor-
22 mation under this section, in writing and within three working days after
23 receipt of such information from the Kansas bureau of investigation.

24 (4) The secretary of health and environment *and the board of nursing*
25 shall not provide each operator requesting information under this section
26 with the juvenile criminal history record information which relates to a
27 person subject to a background check as is provided by K.S.A. 38-1618
28 and amendments thereto, except for adjudications of a juvenile offender
29 for an offense described in K.S.A. 21-3701, and amendments thereto.
30 The secretary *or board of nursing* shall notify the operator that requested
31 the information, in writing and within three working days of receipt of
32 such information from the Kansas bureau of investigation, whether ju-
33 venile criminal history record information received pursuant to this sec-
34 tion reveals that the operator would or would not be prohibited by this
35 section from employing the subject of the request for information and
36 whether such information contains adjudications of a juvenile offender
37 for an offense described in K.S.A. 21-3701, and amendments thereto.

38 (5) An operator who receives criminal history record information un-
39 der this subsection (f) shall keep such information confidential, except
40 that the operator may disclose such information to the person who is the
41 subject of the request for information. A violation of this paragraph (5)
42 shall be an unclassified misdemeanor punishable by a fine of \$100.

43 (g) No person who works for an adult care home and who is currently

1 licensed or registered by an agency of this state to provide professional
2 services in the state and who provides such services as part of the work
3 which such person performs for the adult care home shall be subject to
4 the provisions of this section.

5 (h) A person who volunteers in an adult care home shall not be sub-
6 ject to the provisions of this section because of such volunteer activity.

7 (i) No person who has been employed by the same adult care home
8 for five consecutive years immediately prior to the effective date of this
9 act shall be subject to the provisions of this section while employed by
10 such adult care home.

11 (j) The operator of an adult care home shall not be required under
12 this section to ~~conduct~~ request a background check on an applicant for
13 employment with the adult care home if the applicant has been the sub-
14 ject of a background check under this act within one year prior to the
15 application for employment with the adult care home. The operator of
16 an adult care home where the applicant was the subject of such back-
17 ground check may release a copy of such background check to the op-
18 erator of an adult care home where the applicant is currently applying.

19 (k) No person who is in the custody of the secretary of corrections
20 and who provides services, under direct supervision in nonpatient areas,
21 on the grounds or other areas designated by the superintendent of the
22 Kansas soldiers' home or the Kansas veterans' home shall be subject to
23 the provisions of this section while providing such services.

24 (l) For purposes of this section, the Kansas bureau of investigation
25 shall only report felony convictions, convictions under K.S.A. 21-3437,
26 21-3517 and 21-3701, and amendments thereto, adjudications of a juve-
27 nile offender which if committed by an adult would have been a felony
28 conviction, and adjudications of a juvenile offender for an offense de-
29 scribed in K.S.A. 21-3437, 21-3517 and 21-3701, and amendments
30 thereto, to the secretary of health and environment *or board of nursing*
31 when a background check is requested.

32 (m) This section shall be part of and supplemental to the adult care
33 home licensure act.

34 Sec. 8. K.S.A. 65-1,120 is hereby amended to read as follows: 65-
35 1,120. As used in this act:

36 (a) "Medication aide" means an unlicensed person certified as having
37 satisfactorily completed a training program in medication administration
38 approved by the ~~secretary of health and environment~~ *board of nursing*
39 for the purposes of subsection (i) of K.S.A. 65-1124 and amendments
40 thereto.

41 (b) "~~Secretary~~" means ~~secretary of health and environment~~. "*Board*"
42 means *the board of nursing*.

43 Sec. 9. K.S.A. 65-1,121 is hereby amended to read as follows: 65-

1 1,121. ~~(a)~~ On and after the effective date of this act, no person shall be a
2 medication aide for the purposes of subsection (i) of K.S.A. 65-1124 and
3 amendments thereto unless such person completes a program of contin-
4 uing education at least every two years, as established by the ~~secretary~~
5 *board*. The ~~secretary~~ *board* by duly adopted rules and regulations shall
6 establish the requirements for such a program as soon as possible after
7 the effective date of this act. The ~~secretary~~ *board* shall update the certif-
8 icate of a medication aide upon the completion by such medication aide
9 of any continuing education program as provided in this section. The
10 ~~secretary~~ *board* shall determine a fee by rules and regulations in an
11 amount sufficient to cover the costs of the ~~department~~ *board* to admin-
12 ister the provisions of this act.

13 Sec. 10. K.S.A. 65-1124 is hereby amended to read as follows: 65-
14 1124. No provisions of this law shall be construed as prohibiting:

- 15 (a) Gratuitous nursing by friends or members of the family;
16 (b) the incidental care of the sick by domestic servants or persons
17 primarily employed as housekeepers;
18 (c) caring for the sick in accordance with tenets and practices of any
19 church or religious denomination which teaches reliance upon spiritual
20 means through prayer for healing;
21 (d) nursing assistance in the case of an emergency;
22 (e) the practice of nursing by students as part of a clinical course
23 offered through a school of professional or practical nursing or program
24 of advanced registered professional nursing approved in the United States
25 or its territories;
26 (f) the practice of nursing in this state by legally qualified nurses of
27 any of the other states as long as the engagement of any such nurse
28 requires the nurse to accompany and care for a patient temporarily re-
29 siding in this state during the period of one such engagement not to
30 exceed six months in length, and as long as such nurses do not represent
31 or hold themselves out as nurses licensed to practice in this state;
32 (g) the practice by any nurse who is employed by the United States
33 government or any bureau, division or agency thereof, while in the dis-
34 charge of official duties;
35 (h) auxiliary patient care services performed in medical care facilities,
36 adult care homes or elsewhere by persons under the direction of a person
37 licensed to practice medicine and surgery or a person licensed to practice
38 dentistry or the supervision of a registered professional nurse or a licensed
39 practical nurse;
40 (i) the administration of medications to residents of adult care homes
41 or to patients in hospital-based long-term care units, including state op-
42 erated institutions for the mentally retarded, by an unlicensed person who
43 has been certified as having satisfactorily completed a training program

1 in medication administration approved by the ~~secretary of health and~~
2 ~~environment~~ *board of nursing* and has completed the program on con-
3 tinuing education adopted by the ~~secretary~~ *board of nursing*, or by an
4 unlicensed person while engaged in and as a part of such training program
5 in medication administration;

6 (j) the practice of mental health technology by licensed mental health
7 technicians as authorized under the mental health technicians' licensure
8 act;

9 (k) performance in the school setting of nursing procedures when
10 delegated by a licensed professional nurse in accordance with the rules
11 and regulations of the board;

12 (l) performance of attendant care services directed by or on behalf
13 of an individual in need of in-home care as the terms "attendant care
14 services" and "individual in need of in-home care" are defined under
15 K.S.A. 65-6201 and amendments thereto;

16 (m) performance of a nursing procedure by a person when that pro-
17 cedure is delegated by a licensed nurse, within the reasonable exercise of
18 independent nursing judgment and is performed with reasonable skill and
19 safety by that person under the supervision of a registered professional
20 nurse or a licensed practical nurse;

21 (n) the practice of nursing by an applicant for Kansas nurse licensure
22 in the supervised clinical portion of a refresher course;

23 (o) the practice of nursing by graduates of approved schools of pro-
24 fessional or practical nursing pending the results of the first licensure
25 examination scheduled following such graduation but in no case to exceed
26 120 days, whichever comes first; or

27 (p) the teaching of the nursing process in this state by legally qualified
28 nurses of any of the other states while in consultation with a licensed
29 Kansas nurse as long as such individuals do not represent or hold them-
30 selves out as nurses licensed to practice in this state.

31 Sec. 11. K.S.A. 65-5115 is hereby amended to read as follows: 65-
32 5115. (a) The secretary may require, as a condition to continued employ-
33 ment by a home health agency that home health aides, after 90 days of
34 employment, successfully complete an approved course of instruction and
35 take and satisfactorily pass an examination prescribed by the secretary.
36 The secretary may not require as a condition to employment or continued
37 employment by a home health agency that persons providing only atten-
38 dant care services as an employee of a home health agency complete any
39 course of instruction or pass any examination.

40 (b) A course of instruction for home health aides may be prepared
41 and administered by any home health agency or by any other qualified
42 person. A course of instruction prepared and administered by a home
43 health agency may be conducted on the premises of the home health

1 agency which prepared and which will administer the course of instruc-
2 tion. The secretary shall not require home health aides to enroll in any
3 particular approved course of instruction, but the ~~secretary~~ *board of nurs-*
4 *ing shall prepare guidelines by rules and regulations establish criteria* for
5 the preparation and administration of courses of instruction and shall
6 approve or disapprove courses of instruction.

7 (c) Prior to July 1, ~~1991~~ *2004*, the secretary may require that home
8 health aides complete the course of instruction and pass the examination
9 established pursuant to subsection (c)~~(3)~~ *(1)* of K.S.A. 39-936 and amend-
10 ments thereto before enrolling in an approved course of instruction au-
11 thorized by this section. On and after July 1, ~~1991~~ *2004*, the secretary
12 may not require that home health aides complete the course of instruction
13 and pass the examination established pursuant to subsection (c)~~(3)~~ *(1)* of
14 K.S.A. 39-936 and amendments thereto before enrolling in an approved
15 course of instruction authorized by this section. Home health aides may
16 enroll in any ~~approved~~ *approved by the board of*
17 *nursing.*

18 (d) The examination required under this section shall be prescribed
19 by the ~~secretary~~ *board of nursing* and shall be reasonably related to the
20 duties performed by home health aides. The same examination shall be
21 given by the secretary to all home health aides.

22 (e) The ~~secretary~~ *board of nursing* shall fix, charge and collect an
23 examination fee to cover all or any part of the cost of the examination
24 required under subsection (a). The examination fee shall be fixed by rules
25 and regulations of the ~~secretary~~ *board of nursing*. The examination fee
26 shall be ~~deposited in the state treasury and credited to the state general~~
27 ~~fund~~ *remitted to the state treasurer in accordance with the provisions of*
28 *K.S.A. 74-1108 and 74-1109.*

29 Sec. 12. K.S.A. 2003 Supp. 65-5117 is hereby amended to read as
30 follows: 65-5117. (a) (1) No person shall knowingly operate a home health
31 agency if, for the home health agency, there works any person who has
32 been convicted of or has been adjudicated a juvenile offender because of
33 having committed an act which if done by an adult would constitute the
34 commission of capital murder, pursuant to K.S.A. 21-3439 and amend-
35 ments thereto, first degree murder, pursuant to K.S.A. 21-3401 and
36 amendments thereto, second degree murder, pursuant to subsection (a)
37 of K.S.A. 21-3402 and amendments thereto, voluntary manslaughter, pur-
38 suant to K.S.A. 21-3403 and amendments thereto, assisting suicide, pur-
39 suant to K.S.A. 21-3406 and amendments thereto, mistreatment of a de-
40 pendent adult, pursuant to K.S.A. 21-3437 and amendments thereto,
41 rape, pursuant to K.S.A. 21-3502 and amendments thereto, indecent lib-
42 erties with a child, pursuant to K.S.A. 21-3503 and amendments thereto,
43 aggravated indecent liberties with a child, pursuant to K.S.A. 21-3504 and

1 amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-
2 3506 and amendments thereto, indecent solicitation of a child, pursuant
3 to K.S.A. 21-3510 and amendments thereto, aggravated indecent solici-
4 tation of a child, pursuant to K.S.A. 21-3511 and amendments thereto,
5 sexual exploitation of a child, pursuant to K.S.A. 21-3516 and amend-
6 ments thereto, sexual battery, pursuant to K.S.A. 21-3517 and amend-
7 ments thereto, or aggravated sexual battery, pursuant to K.S.A. 21-3518
8 and amendments thereto, an attempt to commit any of the crimes listed
9 in this subsection (a)(1), pursuant to K.S.A. 21-3301, and amendments
10 thereto, a conspiracy to commit any of the crimes listed in this subsection
11 (a)(1), pursuant to K.S.A. 21-3302, and amendments thereto, or criminal
12 solicitation of any of the crimes listed in this subsection (a)(1), pursuant
13 to K.S.A. 21-3303, and amendments thereto, or similar statutes of other
14 states or the federal government.

15 (2) A person operating a home health agency may employ an appli-
16 cant who has been convicted of any of the following if five or more years
17 have elapsed since the applicant satisfied the sentence imposed or was
18 discharged from probation, a community correctional services program,
19 parole, postrelease supervision, conditional release or a suspended sen-
20 tence; or if five or more years have elapsed since the applicant has been
21 finally discharged from the custody of the commissioner of juvenile justice
22 or from probation or has been adjudicated a juvenile offender, whichever
23 time is longer: A felony conviction for a crime which is described in: (A)
24 Article 34 of chapter 21 of the Kansas Statutes Annotated and amend-
25 ments thereto, except those crimes listed in subsection (a)(1); (B) articles
26 35 or 36 of chapter 21 of the Kansas Statutes Annotated and amendments
27 thereto, except those crimes listed in subsection (a)(1) and K.S.A. 21-
28 3605 and amendments thereto; (C) an attempt to commit any of the
29 crimes listed in this subsection (a)(2) pursuant to K.S.A. 21-3301, and
30 amendments thereto; (D) a conspiracy to commit any of the crimes listed
31 in subsection (a)(2) pursuant to K.S.A. 21-3302, and amendments thereto;
32 (E) criminal solicitation of any of the crimes listed in subsection (a)(2)
33 pursuant to K.S.A. 21-3303, and amendments thereto; or (F) similar stat-
34 utes of other states or the federal government.

35 (b) No person shall operate a home health agency if such person has
36 been found to be a person in need of a guardian or a conservator, or both,
37 as provided in K.S.A. 2003 Supp. 59-3050 through 59-3095, and amend-
38 ments thereto. The provisions of this subsection shall not apply to a minor
39 found to be in need of a guardian or conservator for reasons other than
40 impairment.

41 (c) The secretary of health and environment *and the board of nursing*
42 shall have access to any criminal history record information in the pos-
43 session of the Kansas bureau of investigation regarding felony convictions,

1 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, and amend-
2 ments thereto, adjudications of a juvenile offender which if committed
3 by an adult would have been a felony conviction, and adjudications of a
4 juvenile offender for an offense described in K.S.A. 21-3437, 21-3517 and
5 21-3701, and amendments thereto, concerning persons working for a
6 home health agency. The secretary shall have access to these records for
7 the purpose of determining whether or not the home health agency meets
8 the requirements of this section. *The board of nursing shall have access*
9 *to these records for the purpose of determining whether or not a home*
10 *health aide meets the requirements of this section.* The Kansas bureau of
11 investigation may charge to the department of health and environment a
12 reasonable fee for providing criminal history record information under
13 this subsection.

14 (d) For the purpose of complying with this section, the operator of a
15 home health agency shall request from the department of health and
16 environment information *concerning employees of the home health*
17 *agency who are not home health aides and the board of nursing shall*
18 *request information concerning home health aides* regarding only felony
19 convictions, convictions under K.S.A. 21-3437, 21-3517 and 21-3701, and
20 amendments thereto, adjudications of a juvenile offender which if com-
21 mitted by an adult would have been a felony conviction, and adjudications
22 of a juvenile offender for an offense described in K.S.A. 21-3437, 21-3517
23 and 21-3701, and amendments thereto, and which relates to a person
24 who works for the home health agency or is being considered for em-
25 ployment by the home health agency, for the purpose of determining
26 whether such person is subject to the provisions of this section. For the
27 purpose of complying with this section, information relating to convictions
28 and adjudications by the federal government or to convictions and adju-
29 dications in states other than Kansas shall not be required until such time
30 as the secretary of health and environment *or board of nursing* deter-
31 mines the search for such information could reasonably be performed
32 and the information obtained within a two-week period. For the purpose
33 of complying with this section, the operator of a home health agency shall
34 receive from any employment agency which provides employees to work
35 for the home health agency written certification that such employees are
36 not prohibited from working for the home health agency under this sec-
37 tion. For the purpose of complying with this section, a person who op-
38 erates a home health agency may hire an applicant for employment on a
39 conditional basis pending the results from the department of health and
40 environment *or board of nursing* of a request for information under this
41 subsection. No home health agency, the operator or employees of a home
42 health agency or an employment agency, or the operator or employees
43 of an employment agency, which provides employees to work for the

1 home health agency shall be liable for civil damages resulting from any
2 decision to employ, to refuse to employ or to discharge from employment
3 any person based on such home health agency's compliance with the
4 provisions of this section if such home health agency or employment
5 agency acts in good faith to comply with this section.

6 (e) The secretary of health and environment *and the board of nursing*
7 shall charge each person requesting information under this section a fee
8 equal to cost, not to exceed \$10, for each name about which an infor-
9 mation request has been submitted under this section.

10 (f) (1) The secretary of health and environment *and the board of*
11 *nursing* shall provide each operator requesting information under this
12 section with the criminal history record information concerning felony
13 convictions and convictions under K.S.A. 21-3437, 21-3517 and 21-3701,
14 and amendments thereto, in writing and within three working days of
15 receipt of such information from the Kansas bureau of investigation. The
16 criminal history record information shall be provided regardless of
17 whether the information discloses that the subject of the request has been
18 convicted of an offense enumerated in subsection (a).

19 (2) When an offense enumerated in subsection (a) exists in the crim-
20 inal history record information, and when further confirmation regarding
21 criminal history record information is required from the appropriate court
22 of jurisdiction or Kansas department of corrections, the secretary *and*
23 *board of nursing* shall notify each operator that requests information un-
24 der this section in writing and within three working days of receipt from
25 the Kansas bureau of investigation that further confirmation is required.
26 The secretary *and board of nursing* shall provide to the operator request-
27 ing information under this section information in writing and within three
28 working days of receipt of such information from the appropriate court
29 of jurisdiction or Kansas department of corrections regarding confirma-
30 tion regarding the criminal history record information.

31 (3) Whenever the criminal history record information reveals that the
32 subject of the request has no criminal history on record, the secretary
33 *and board of nursing* shall provide notice to each operator requesting
34 information under this section, in writing and within three working days
35 after receipt of such information from the Kansas bureau of investigation.

36 (4) The secretary of health and environment *and the board of nursing*
37 shall not provide each operator requesting information under this section
38 with the juvenile criminal history record information which relates to a
39 person subject to a background check as is provided by K.S.A. 38-1618
40 and amendments thereto, except for adjudications of a juvenile offender
41 for an offense described in K.S.A. 21-3701, and amendments thereto.
42 The secretary *and board of nursing* shall notify the operator that re-
43 quested the information, in writing and within three working days of

1 receipt of such information from the Kansas bureau of investigation,
2 whether juvenile criminal history record information received pursuant
3 to this section reveals that the operator would or would not be prohibited
4 by this section from employing the subject of the request for information
5 and whether such information contains adjudications of a juvenile of-
6 fender for an offense described in K.S.A. 21-3701, and amendments
7 thereto.

8 (5) An operator who receives criminal history record information un-
9 der this subsection (f) shall keep such information confidential, except
10 that the operator may disclose such information to the person who is the
11 subject of the request for information. A violation of this paragraph (5)
12 shall be an unclassified misdemeanor punishable by a fine of \$100.

13 (g) No person who works for a home health agency and who is cur-
14 rently licensed or registered by an agency of this state to provide profes-
15 sional services in this state and who provides such services as part of the
16 work which such person performs for the home health agency shall be
17 subject to the provisions of this section.

18 (h) A person who volunteers to assist a home health agency shall not
19 be subject to the provisions of this section because of such volunteer
20 activity.

21 (i) No person who has been employed by the same home health
22 agency for five consecutive years immediately prior to the effective date
23 of this act shall be subject to the requirements of this section while em-
24 ployed by such home health agency.

25 (j) The operator of a home health agency shall not be required under
26 this section to conduct a background check on an applicant for employ-
27 ment with the home health agency if the applicant has been the subject
28 of a background check under this act within one year prior to the appli-
29 cation for employment with the home health agency. The operator of a
30 home health agency where the applicant was the subject of such back-
31 ground check may release a copy of such background check to the op-
32 erator of a home health agency where the applicant is currently applying.

33 (k) For purposes of this section, the Kansas bureau of investigation
34 shall only report felony convictions, convictions under K.S.A. 21-3437,
35 21-3517 and 21-3701, and amendments thereto, adjudications of a juve-
36 nile offender which if committed by an adult would have been a felony
37 conviction, and adjudications of a juvenile offender for an offense de-
38 scribed in K.S.A. 21-3437, 21-3517 and 21-3701, and amendments
39 thereto, to the secretary of health and environment *or board of nursing*
40 when a background check is requested.

41 (l) This section shall be part of and supplemental to the provisions of
42 article 51 of chapter 65 of the Kansas Statutes Annotated and acts amen-
43 datory thereof or supplemental thereto.

1 New Sec. 13. All powers, duties and functions of the secretary of
2 health and environment concerning the course of instruction and exam-
3 ination of home health aides is hereby transferred to and conferred upon
4 the board of nursing.

5 New Sec. 14. (a) Except as otherwise provided by this act, the board
6 of nursing shall be the successor in every way to the duties and functions
7 of the secretary of health and environment concerning the course of in-
8 struction and examination of home health aides in which the same was
9 vested prior to the effective date of this act. Every act performed in the
10 exercise of such powers, duties and functions by or under the authority
11 of the board of nursing shall have the same force and effect as if per-
12 formed by the secretary of health and environment in which such powers,
13 duties and functions were vested prior to the effective date of this act.

14 (b) Except as otherwise provided by this act, whenever the secretary
15 of health and environment or words of like effect concerning the course
16 of instruction and examination of home health aides is referred to or
17 designated by a statute, contractor or other document, such reference or
18 designation shall be deemed to apply to the board of nursing.

19 (c) All rules and regulations of the department of health and envi-
20 ronment concerning the course of instruction and examination of home
21 health aides on the effective date of this act shall continue to be effective
22 and shall be deemed to be duly adopted rules and regulations of the board
23 until revised, amended, revoked or nullified by law.

24 New Sec. 15. (a) When any conflict arises as to the disposition of any
25 power, duty or function or the unexpended balance of any appropriation
26 as a result of any abolition, transfer, attachment or change made by or
27 under authority of this act, such conflict shall be resolved by the governor,
28 whose decision shall be final.

29 (b) The board of nursing shall have legal custody of all records per-
30 taining to the training and certification of home health aides and the home
31 health aide registry.

32 Sec. 16. K.S.A. 74-1106 is hereby amended to read as follows: 74-
33 1106. (a) *Appointment, term of office.* (1) The governor shall appoint a
34 board consisting of 11 members of which six shall be registered profes-
35 sional nurses, two shall be licensed practical nurses, one shall be a licensed
36 mental health technician and two shall be members of the general public,
37 which shall constitute a board of nursing, with the duties, power and
38 authority set forth in this act.

39 (2) Upon the expiration of the term of any registered professional
40 nurse, the Kansas state nurses association shall submit to the governor a
41 list of registered professional nurses containing names of not less than
42 three times the number of persons to be appointed, and appointments
43 shall be made after consideration of such list for terms of four years and

1 until a successor is appointed and qualified.

2 (3) On the effective date of this act, the Kansas federation of licensed
3 practical nurses shall submit to the governor a list of licensed practical
4 nurses containing names of not less than three times the number of per-
5 sons to be appointed, and appointments shall be made after consideration
6 of such list, with the first appointment being for a term of four years and
7 the second appointment being for a term of two years. Upon the expi-
8 ration of the term of any licensed practical nurse, a successor of like
9 qualifications shall be appointed in the same manner as the original ap-
10 pointment for a term of four years and until a successor is appointed and
11 qualified.

12 (4) Upon the expiration of the term of any mental health technician,
13 the Kansas association of human services technologies shall submit to the
14 governor a list of persons licensed as mental health technicians containing
15 names of not less than three times the number of persons to be appointed,
16 and appointments shall be made after consideration of such list for terms
17 of four years and until a successor is appointed and qualified.

18 (5) Each member of the general public shall be appointed for a term
19 of four years and successors shall be appointed for a like term.

20 (6) Whenever a vacancy occurs on the board of nursing, it shall be
21 filled by appointment for the remainder of the unexpired term in the
22 same manner as the preceding appointment. No person shall serve more
23 than two consecutive terms as a member of the board of nursing and
24 appointment for the remainder of an unexpired term shall constitute a
25 full term of service on such board. With the expiration of terms for the
26 registered professional nurse from education and one public member in
27 July, 2003, the next appointments for those two positions will be for only
28 one year. Thereafter the two positions shall be appointed for terms of
29 four years.

30 (b) *Qualifications of members.* Each member of the board shall be a
31 citizen of the United States and a resident of the state of Kansas. Regis-
32 tered professional nurse members shall possess a license to practice as a
33 professional nurse in this state with at least five years' experience in nurs-
34 ing as such and shall be actively engaged in professional nursing in Kansas
35 at the time of appointment and reappointment. The licensed practical
36 nurse members shall be licensed to practice practical nursing in the state
37 with at least five years' experience in practical nursing and shall be actively
38 engaged in practical nursing in Kansas at the time of appointment and
39 reappointment. The governor shall appoint successors so that the regis-
40 tered professional nurse membership of the board shall consist of at least
41 two members who are engaged in nursing service, at least two members
42 who are engaged in nursing education and at least one member who is
43 engaged in practice as an advanced registered nurse practitioner or a

1 registered nurse anesthetist. The licensed mental health technician mem-
2 ber shall be licensed to practice as a licensed mental health technician in
3 the state with at least five years' experience and shall be actively engaged
4 in the field of mental health technology in Kansas at the time of appoint-
5 ment and reappointment. The consumer members shall represent the
6 interests of the general public. Each member of the board shall take and
7 subscribe the oath prescribed by law for state officers, which oath shall
8 be filed with the secretary of state.

9 (c) *Duties and powers.* (1) The board shall meet annually at Topeka
10 during the month of September and shall elect from its members a pres-
11 ident, vice-president and secretary, each of whom shall hold their re-
12 spective offices for one year. The board shall employ an executive ad-
13 ministrator, who shall be a registered professional nurse, who shall not
14 be a member of the board and who shall be in the unclassified service
15 under the Kansas civil service act, and shall employ such other employees,
16 who shall be in the classified service under the Kansas civil service act as
17 necessary to carry on the work of the board. As necessary, the board shall
18 be represented by an attorney appointed by the attorney general as pro-
19 vided by law, whose compensation shall be determined and paid by the
20 board with the approval of the governor. The board may hold such other
21 meetings during the year as may be deemed necessary to transact its
22 business.

23 (2) The board shall adopt rules and regulations consistent with this
24 act necessary to carry into effect the provisions thereof, and such rules
25 and regulations may be published and copies thereof furnished to any
26 person upon application.

27 (3) The board shall prescribe curricula and standards for professional
28 and practical nursing programs, *nurse aide programs* and mental health
29 technician programs, and provide for surveys of such schools and courses
30 at such times as it may deem necessary. It shall accredit such schools and
31 approve courses as meet the requirements of the appropriate act and rules
32 and regulations of the board.

33 (4) The board shall examine, license and renew licenses of duly qual-
34 ified applicants and conduct hearings upon charges for limitation, sus-
35 pension or revocation of a license or approval of professional and practical
36 nursing, *nurse aide programs* and mental health technician programs and
37 may limit, deny, suspend or revoke for proper legal cause, licenses or
38 approval of professional and practical nursing and mental health techni-
39 cian programs, as hereinafter provided. Examination for applicants for
40 registration shall be given at least twice each year and as many other times
41 as deemed necessary by the board. The board shall promote improved
42 means of nursing education and standards of nursing care through insti-
43 tutes, conferences and other means.

1 (5) The board shall have a seal of which the executive administrator
2 shall be the custodian. The president and the secretary shall have the
3 power and authority to administer oaths in transacting business of the
4 board, and the secretary shall keep a record of all proceedings of the
5 board and a register of professional and practical nurses, *nurse aides* and
6 mental health technicians licensed and showing the certificates of regis-
7 tration or licenses granted or revoked, which register shall be open at all
8 times to public inspection.

9 (6) The board may enter into contracts as may be necessary to carry
10 out its duties.

11 (7) The board is hereby authorized to apply for and to accept grants
12 and may accept donations, bequests or gifts. The board shall remit all
13 moneys received by it under this paragraph (7) to the state treasurer in
14 accordance with the provisions of K.S.A. 75-4215, and amendments
15 thereto. Upon receipt of each such remittance, the state treasurer shall
16 deposit the entire amount in the state treasury to the credit of the grants
17 and gifts fund which is hereby created. All expenditures from such fund
18 shall be made in accordance with appropriation acts upon warrants of the
19 director of accounts and reports issued pursuant to vouchers approved
20 by the president of the board or a person designated by the president.

21 (8) A majority of the board of nursing including two professional
22 nurse members shall constitute a quorum for the transaction of business.

23 (d) *Subpoenas.* In all investigations and proceedings, the board shall
24 have the power to issue subpoenas and compel the attendance of wit-
25 nesses and the production of all relevant and necessary papers, books,
26 records, documentary evidence and materials. Any person failing or re-
27 fusing to appear or testify regarding any matter about which such person
28 may be lawfully questioned or to produce any books, papers, records,
29 documentary evidence or relevant materials in the matter, after having
30 been required by order of the board or by a subpoena of the board to do
31 so, upon application by the board to any district judge in the state, may
32 be ordered by such judge to comply therewith. Upon failure to comply
33 with the order of the district judge, the court may compel obedience by
34 attachment for contempt as in the case of disobedience of a similar order
35 or subpoena issued by the court. A subpoena may be served upon any
36 person named therein anywhere within the state with the same fees and
37 mileage by an officer authorized to serve subpoenas in civil actions in the
38 same procedure as is prescribed by the code of civil procedure for sub-
39 poenas issued out of the district courts of this state.

40 (e) *Compensation and expenses.* Members of the board of nursing
41 attending meetings of such board, or attending a subcommittee meeting
42 thereof authorized by such board, shall be paid compensation, subsistence
43 allowances, mileage and other expenses as provided in K.S.A. 75-3223,

1 and amendments thereto.

2 (f) *For the purpose of this act, “nurse aide” means nurse aides and*
3 *medication aides under the adult care home licensure act, K.S.A. 39-923*
4 *et seq., and amendments thereto, and home health aides under the home*
5 *health agency act, K.S.A. 65-5101 et seq., and amendments thereto.*

6 Sec. 17. K.S.A. 65-1,120, 65-1,121, 65-1124, 65-5115 and 74-1106
7 and K.S.A. 2003 Supp. 39-936, 39-970 and 65-5117 are hereby repealed.

8 Sec. 18. This act shall take effect and be in force from and after its
9 publication in the statute book.