

HOUSE BILL No. 2147

By Committee on Aging and Long Term Care

2-4

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

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

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

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

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

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

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

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

1 limitations and in which the place or facility includes apartments for
2 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
7 assisted 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
11 individuals not related within the third degree of relationship to the
12 administrator, operator or owner by blood or marriage and who, by choice
13 or due to functional impairments, may need personal care and may need
14 supervised nursing care to compensate for activities of daily living
15 limitations and in which the place or facility includes individual living
16 units and provides or coordinates personal care or supervised nursing care
17 available on a 24-hour, ~~seven-days-a-week~~~~seven-day-a-week~~ basis for the
18 support of resident independence. The provision of skilled nursing
19 procedures to a resident in a residential health care facility is not
20 prohibited by this act. Generally, the skilled services provided in a
21 residential health care facility shall be provided on an intermittent or
22 limited term basis, or if limited in scope, a regular basis.

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

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

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

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

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

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

16 (12) "Supervised nursing care" means services provided by or under
17 the guidance of a licensed nurse with initial direction for nursing
18 procedures and periodic inspection of the actual act of accomplishing the
19 procedures; administration of medications and treatments as prescribed
20 by a licensed physician or dentist and assistance of residents with the
21 performance 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 that
29 for the purposes of this definition the word "own" and the word "lease"
30 shall not include hospital districts, cities and counties which hold title to
31 an adult care home purchased or constructed through the sale of bonds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (c) 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 (d) 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 (e) 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 (f) The licensing agency may by rule and regulation change the
8 name of the different classes of homes when necessary to avoid confusion
9 in 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
13 categories for adult care homes are used as guidelines to define and
14 identify the specific acts.

15 Sec. 2. K.S.A. 2010 Supp. 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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