

(Corrected)

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 2011

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 home
2 plus residence or facility; amending K.S.A. 2010 Supp. 39-923 and
3 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 for
9 mental health, intermediate care facility for the mentally retarded, assisted
10 living facility, residential health care facility, home plus, boarding care
11 home and adult day care facility; all of which *are* classifications of adult
12 care homes *and* are required to be licensed by the secretary of aging.

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

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

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

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

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

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

24 (7) "Home plus" means any residence or facility caring for not more
 25 than ~~12~~~~eight~~ individuals not related within the third degree of relationship
 26 to the operator or owner by blood or marriage unless the resident in need
 27 of care is approved for placement by the secretary of the department of
 28 social and rehabilitation services, and who, due to functional impairment,
 29 needs personal care and may need supervised nursing care to compensate
 30 for activities of daily living limitations. The level of care provided to
 31 residents shall be determined by preparation of the staff and rules and
 32 regulations developed by the department on aging. An adult care home
 33 may convert a portion of one wing of the facility to a not less than five-bed
 34 and not more than ~~12-bed~~~~eight-bed~~ home plus facility provided that the
 35 home plus facility remains separate from the adult care home, and each
 36 facility must remain contiguous. ***[Any home plus that provides care for
 37 more than eight individuals after the effective date of this act shall
 38 increase staffing personnel and resources to meet the increased need in
 39 order to maintain the current level of nursing care standards.]
 40 Personnel of any home plus who provide services for residents with
 41 dementia shall be required to take dementia care training.***

42 (8) "Boarding care home" means any place or facility operating 24
 43 hours a day, seven days a week, caring for not more than 10 individuals

1 not related within the third degree of relationship to the operator or owner
2 by blood or marriage and who, due to functional impairment, need
3 supervision of activities of daily living but who are ambulatory and
4 essentially capable of managing their own care and affairs.

5 (9) "Adult day care" means any place or facility operating less than
6 24 hours a day caring for individuals not related within the third degree of
7 relationship to the operator or owner by blood or marriage and who, due to
8 functional impairment, need supervision of or assistance with activities of
9 daily living.

10 (10) "Place or facility" means a building or any one or more complete
11 floors of a building, or any one or more complete wings of a building, or
12 any one or more complete wings and one or more complete floors of a
13 building, and the term "place or facility" may include multiple buildings.

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

21 (12) "Supervised nursing care" means services provided by or under
22 the guidance of a licensed nurse with initial direction for nursing
23 procedures and periodic inspection of the actual act of accomplishing the
24 procedures; administration of medications and treatments as prescribed by
25 a licensed physician or dentist and assistance of residents with the
26 performance of activities of daily living.

27 (13) "Resident" means all individuals kept, cared for, treated, boarded
28 or otherwise accommodated in any adult care home.

29 (14) "Person" means any individual, firm, partnership, corporation,
30 company, association or joint-stock association, and the legal successor
31 thereof.

32 (15) "Operate an adult care home" means to own, lease, establish,
33 maintain, conduct the affairs of or manage an adult care home, except that
34 for the purposes of this definition the word "own" and the word "lease"
35 shall not include hospital districts, cities and counties which hold title to an
36 adult care home purchased or constructed through the sale of bonds.

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

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

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

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

43 (20) "Individual living unit" means a private unit which includes, but

1 is not limited to, a toilet room with bathing facilities, sleeping, living and
2 storage area and a lockable door.

3 (21) "Operator" means an individual who operates an assisted living
4 facility or residential health care facility with fewer than 61 residents, a
5 home plus or adult day care facility and has completed a course approved
6 by the secretary of health and environment on principles of assisted living
7 and has successfully passed an examination approved by the secretary of
8 health and environment on principles of assisted living and such other
9 requirements as may be established by the secretary of health and
10 environment by rules and regulations.

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

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

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

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

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

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

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

40 (c) Nursing facilities in existence on the effective date of this act
41 changing licensure categories to become residential health care facilities
42 shall be required to provide private bathing facilities in a minimum of 20%
43 of the individual living units.

1 (d) Facilities licensed under the adult care home licensure act on the
2 day immediately preceding the effective date of this act shall continue to
3 be licensed facilities until the annual renewal date of such license and may
4 renew such license in the appropriate licensure category under the adult
5 care home licensure act subject to the payment of fees and other conditions
6 and limitations of such act.

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

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

18 Sec. 2. K.S.A. 2010 Supp. 39-923 is hereby repealed.

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