

## HOUSE BILL No. 2418

By Joint Committee on Administrative Rules and Regulations

12-2

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1 AN ACT concerning the adult care home licensure act; pertaining to rules  
2 and regulations; amending K.S.A. 2013 Supp. 39-925 and repealing the  
3 existing section.  
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2013 Supp. 39-925 is hereby amended to read as  
7 follows: 39-925. (a) The administration of the adult care home licensure  
8 act is hereby transferred from the secretary of health and environment to  
9 the secretary ~~of aging~~ *for aging and disability services*, except as  
10 otherwise provided by this act. On the effective date of this act, the  
11 administration of the adult care home licensure act shall be under authority  
12 of the secretary ~~of aging~~ *for aging and disability services* as the licensing  
13 agency in conjunction with the state fire marshal, and shall have the  
14 assistance of the county, city-county or multicounty health departments,  
15 local fire and safety authorities and other agencies of government in this  
16 state. The secretary ~~of aging~~ *for aging and disability services* shall appoint  
17 an officer to administer the adult care home licensure act and such officer  
18 shall be in the unclassified service under the Kansas civil service act.

19 (b) The secretary ~~of aging~~ *for aging and disability services* shall be a  
20 continuation of the secretary of health and environment as to the programs  
21 transferred and shall be the successor in every way to the powers, duties  
22 and functions of the secretary of health and environment for such  
23 programs, except as otherwise provided by this act. On and after the  
24 effective date of this act, for each of the programs transferred, every act  
25 performed in the exercise of such powers, duties and functions by or under  
26 the authority of the secretary ~~of aging~~ *for aging and disability services*  
27 shall be deemed to have the same force and effect as if performed by the  
28 secretary of health and environment in whom such powers were vested  
29 prior to the effective date of this act.

30 (c) (1) No suit, action or other proceeding, judicial or administrative,  
31 which pertains to any of the transferred adult care home survey,  
32 certification and licensing programs, and reporting of abuse, neglect or  
33 exploitation of adult care home residents, which is lawfully commenced,  
34 or could have been commenced, by or against the secretary of health and  
35 environment in such secretary's official capacity or in relation to the  
36 discharge of such secretary's official duties, shall abate by reason of the

1 transfer of such programs. The secretary ~~of aging for aging and disability~~  
2 *services* shall be named or substituted as the defendant in place of the  
3 secretary of health and environment in any suit, action or other proceeding  
4 involving claims arising from facts or events first occurring either on or  
5 before the effective date of this act or thereafter.

6 (2) No suit, action or other proceeding, judicial or administrative,  
7 pertaining to the adult care home survey, certification and licensing  
8 programs or to the reporting of abuse, neglect or exploitation of adult care  
9 home residents which otherwise would have been dismissed or concluded  
10 shall continue to exist by reason of any transfer under this act.

11 (3) No criminal action commenced or which could have been  
12 commenced by the state shall abate by the taking effect of this act.

13 (4) Any final appeal decision of the department of health and  
14 environment entered pursuant to K.S.A. 39-923 et seq., and amendments  
15 thereto, K.S.A. 39-1401 et seq., and amendments thereto, or the Kansas  
16 judicial review act, K.S.A. 77-601 et seq., and amendments thereto,  
17 currently pertaining to adult care home certification, survey and licensing  
18 or reporting of abuse, neglect or exploitation of adult care home residents,  
19 transferred pursuant to this act shall be binding upon and applicable to the  
20 secretary ~~of aging for aging and disability services~~ and the ~~department on~~  
21 ~~aging~~ *Kansas department for aging and disability services*.

22 (5) All orders and directives under the adult care home licensure act  
23 by the secretary of health and environment in existence immediately prior  
24 to the effective date of the transfer of powers, duties and functions by this  
25 act, shall continue in force and effect and shall be deemed to be duly  
26 issued orders, and directives of the secretary ~~of aging for aging and~~  
27 ~~disability services~~, until reissued, amended or nullified pursuant to law.

28 (d) ~~(1)~~ All rules and regulations of the department of health and  
29 environment adopted pursuant to K.S.A. 39-923 et seq., and amendments  
30 thereto, and in effect on the effective date of this act, which promote the  
31 safe, proper and adequate treatment and care of individuals in adult care  
32 homes, ~~except those specified in subsection (d)(2) of this section,~~ shall  
33 continue to be effective and shall be deemed to be rules and regulations of  
34 the secretary ~~of aging for aging and disability services~~, until revised,  
35 amended, revoked or nullified by the secretary ~~of aging for aging and~~  
36 ~~disability services~~, or otherwise, pursuant to law.

37 (2) ~~The following rules and regulations of the department of health~~  
38 ~~and environment adopted pursuant to K.S.A. 39-923 et seq., and~~  
39 ~~amendments thereto, and in effect on the effective date of this act, shall~~  
40 ~~remain the rules and regulations of the secretary of health and~~  
41 ~~environment: K.A.R. 28-39-164 through 28-39-174.~~

42 (e) All contracts shall be made in the name of "secretary ~~of aging for~~  
43 ~~aging and disability services~~" and in that name the secretary ~~of aging for~~

1 *aging and disability services* may sue and be sued on such contracts. The  
2 grant of authority under this subsection shall not be construed to be a  
3 waiver of any rights retained by the state under the 11<sup>th</sup> amendment to the  
4 United States constitution and shall be subject to and shall not supersede  
5 the provisions of any appropriation act of this state.

6 Sec. 2. K.S.A. 2013 Supp. 39-925 is hereby repealed.

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

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