

Kansas

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Licensure Term Assisted Living Facilities, Residential Health Care Facilities, and Home Plus

Opening Statement The Kansas Department for Aging and Disability Services licenses assisted living facilities.

Legislative and Regulatory Update In 2019, Kansas passed SB 15, effective May 9, 2019, to amend the Adult Care Home Licensure Act, which affects a number of different types of settings all classified as adult care homes. Assisted living/residential care facilities fall under the classification of adult care homes in Kansas.

The legislation requires the application for a license to operate an adult care home to include evidence of access to sufficient working capital necessary to operate an adult care home and include a list of current or previously licensed facilities in Kansas or outside the state in which an applicant has or previously had any ownership interest in the operations or the real property of the facility. It also addresses several provisions regarding receivership of a facility, including: restrictions on licensure; venue for filing an application for receivership; modifies the powers and duties of a receiver; restricts the application or renewal of a license for a licensee and applicant under a receivership; adds operators and any individuals or entities that appear on a license to operate an adult care home to the list of those who are required to repay the payments made by the Secretary for Aging and Disability Services and personnel costs and other expenses to establish a receivership and assist the receiver, and who are subject to a lien on non-exempt personal and real property until amounts owed are repaid; and makes technical corrections.

In 2018 state passed a background check bill and a camera surveillance bill for assisted living and residential care facilities. Effective July 1, 2018, the background check legislation (HB 2386) updates the prohibiting offense list and for home and community

based service providers, some prohibiting offenses are now prohibited for six years. The bill requires the state to require that applicants be fingerprinted and submit to a state and national criminal history record check. HB 2232 (2018) allows a resident of an adult care home, or a resident's guardian or legal representative, to conduct authorized electronic monitoring in the resident's room subject to requirements set out in the bill.

Definition

Assisted Living Facility: Any place or facility caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for ADL limitations and in which the place or facility includes apartments for residents and provides or coordinates a range of services including personal care or supervised nursing care available 24 hours a day, seven days a week for the support of resident independence.

Residential Health Care Facility: Any place or facility, or a contiguous portion of a place or facility, caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for ADL limitations and in which the place or facility includes individual living units and provides or coordinates personal care or supervised nursing care available on a 24-hour, seven-days-a-week basis for the support of resident independence.

Home Plus: Any residence or facility caring for not more than 12 individuals not related within the third degree of relationship to the operator or owner by blood or marriage unless the resident in need of care is approved for placement by the secretary of the department of social and rehabilitation services, and who, due to functional impairment, needs personal care and may need supervised nursing care to compensate for ADL limitations. The level of care provided residents shall be determined by preparation of the staff and rules and regulations developed by the department on aging. An adult care home may convert a portion of one wing of the facility to a not less than five-bed and not more than 12-bed home plus facility provided that the home plus facility remains separate from the adult care home, and each facility must remain contiguous. Any home plus that provides care for more than eight individuals shall adjust staffing personnel and resources as necessary to meet residents' needs in order to maintain the current level of nursing

care standards. Personnel of any home plus who provide services for residents with dementia shall be required to take annual dementia care training.

Disclosure Items

At or before admission each resident shall be provided a statement setting forth the general responsibilities and services and daily or monthly charges for such responsibilities and services. At the time of admission, facilities shall provide in writing to the resident or the resident's legal representative the state statutes related to advance medical directives, as well as a copy of resident rights, the facilities' policies and procedures for advance medical directives, and the facility grievance policy.

Facility Scope of Care

Direct care staff may provide assistance with ADLs. Skilled nursing services are not prohibited; however, they generally must be limited, intermittent, or routine in scope. Wellness and health monitoring is required.

Third Party Scope of Care

The negotiated service agreement can include provision of licensed home health agency or hospice services, as well as services provided gratuitously by family members or friends.

Admission and Retention Policy

Residents may be admitted if the facility can meet their needs. Residents will be discharged if their safety, health, or welfare is endangered. Residents with one or more of the following conditions shall not be admitted or retained, unless the negotiated service agreement includes services sufficient to meet the needs of the resident: unmanageable incontinence; immobility if the resident is totally dependent with mobility to exit the building; a condition requiring a two-person transfer; ongoing skilled nursing intervention needed 24 hours per day; or unmanageable behavioral symptoms. The operator or administrator shall ensure that any resident whose clinical condition requires the use of physical restraints is not admitted or retained. Resident functional capacity screens are conducted before admission and annually after admission or upon significant change. The facility must give the resident a 30-day notice of transfer or discharge.

Resident Assessment

On or before admission, a licensed nurse, licensed social worker, or the administrator or operator must conduct a functional capacity screen on each resident as specified by the Department on Aging. A facility may choose to integrate the specified screen in an instrument developed by the facility. A functional capacity screen must be conducted at least annually or following a significant change in the resident's physical, mental, or psychosocial functioning. A licensed nurse shall assess any resident whose functional capacity screening indicates the need for health care

services.

Medication Management

Facilities can manage their residents' medication or allow residents to engage in the self-administration of medication. Self-administration of medication means the determination by a resident of when to take a medication or biological and how to apply, inject, inhale, ingest, or take a medication or biological by any other means, without assistance from nursing staff. A licensed nurse must perform an assessment and determine the resident can perform self-administration of medication safely. The assessment must include an evaluation of the resident's physical, cognitive, and functional ability to safely and accurately self-administer and manage medications independently.

Any resident may choose to have personal medication administered by family members or friends gratuitously.

A licensed pharmacist shall conduct a medication regimen review for each resident whose medication is managed by the facility at least quarterly and each time the resident experiences any significant change. Residents who self-administer medications must be offered a medication review conducted by a licensed pharmacist at least quarterly and each time a resident experiences a significant change in condition.

Square Feet Requirements

Each assisted living facility shall contain apartments with at least 200 square feet of living space, not including the toilet room, closets, lockers, wardrobes, other built-in fixed items, alcoves and vestibules.

Each residential health care facility shall provide individual living units which include at least 100 square feet of living space not including the toilet room, closets, lockers, wardrobes, other built-in fixed items, alcoves, and vestibules.

While square feet requirements are not specified for home plus, the rules include other requirements for the general building interior such as resident bedrooms.

Residents Allowed Per Room

None specified.

Bathroom Requirements

Each assisted living facility shall contain apartments that include a toilet room with a toilet, lavatory, and a bath tub or shower accessible to a resident with disabilities.

Life Safety

All licensed Residential Health Care and Assisted Living Facilities shall meet the requirements identified in Chapter 33 of National Fire Protection Association (NFPA) 101, Life Safety Code, 2006 edition.

Any facility built or remodeled after February 2011 shall meet the requirements identified in Chapter 32 of NFPA 101, Life Safety Code, 2006 edition. All new construction must submit a code footprint from a licensed architect/engineer to the Office of the Kansas State Fire Marshal for approval at least 30 days prior to the start of construction. The code footprint must comply with the NFPA Life Safety Code 101, 2006 edition, and must be approved before construction begins. All construction projects shall be subject to a final on-site approval inspection prior to occupancy. The state fire marshal's office conducts an annual inspection of any facility that is licensed.

Unit and Staffing Requirements for Serving Persons with Dementia

In facilities that admit residents with dementia, in-service education on treatment of behavioral symptoms must be provided. Direct care staff must be present in the special care section at all times.

Before assignment to the special care section or facility, each staff member must be provided with a training program related to the specific needs of the residents to be served and evidence of completion of the training is to be maintained in the employee's personnel records.

Staffing Requirements

A full-time operator (not required to be a licensed administrator if less than 61 residents are in the facility) or administrator must be employed by the facility and sufficient numbers of qualified personnel are required to ensure that residents receive services and care in accordance with negotiated service agreements. There are no minimum staffing ratios. Direct care staff or licensed nursing staff shall be awake and responsive at all times. A registered professional nurse shall be available to provide supervision to licensed practical nurses

Administrator Education/Training

Operators and administrators must: be at least 21 years of age; possess a high school diploma or equivalent; hold a Kansas license as an adult care home administrator or have successfully completed an operator training course and passed the test approved by the Secretary of Kansas Department of Health and Environment; and have authority and responsibility for the operation of the facility and compliance with licensing requirements. No person shall represent that they are an operator unless they are registered.

Staff Education/Training

Orientation is required for all new employees and regular in-service education regarding the principles of assisted living is required for all employees. All staff must have training pertaining to abuse, neglect, and exploitation, and in disaster and emergency preparedness. All unlicensed employees who provide direct care to residents must successfully complete a 90-hour nurse aide course

and pass a test.

**Entity Approving
CE Program**

Registered Operators require 30 CEs every two years: 15 in the core area of Administration, 10 in Resident Care and up to 5 Elective. Continuing education hours are approved by the Kansas Department for Aging and Disability Services under the Health Occupations Credentialing. Their director is Brenda Dreher (brenda.dreher@ks.gov) and education administrator is Michael Hays (michael.hays@ks.gov).

**Medicaid Policy and
Reimbursement**

A Medicaid home and community-based services waiver covers services in assisted living facilities that are enrolled as providers and only for residents who meet nursing home level-of-care criteria. Payment for services is based on a resident plan of care. Home and community based services are provided under LTCSS Managed Care or KanCare which currently has three MCOs: United Health, Sunflower/Centene and Aetna Better Health of Kansas. Medicaid policy and eligibility is administered by the Kansas Department of Health and Environment, Division of Health Care Finance.

Citations

Kansas Statutes and Regulations for the Licensure and Operation of Assisted Living and Residential Care Facilities, Prepared by the Kansas Department for Aging and Disability Services, Survey and Certification Commission. <http://www.kdads.ks.gov/docs/default-source/General-Provider-Pages/provider-statutes-and-regulations/ksa-and-kar-for-adult-care-homes/assisted-living---residential-health-care-facilities.pdf?sfvrsn=2>

Kansas Department for Aging and Disability Services. Home and Community Based Services (HCBS)
[http://www.kdads.ks.gov/commissions/home-community-based-services-\(hcbs\)](http://www.kdads.ks.gov/commissions/home-community-based-services-(hcbs))

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