

HOUSE BILL No. 2799

By Committee on Appropriations

2-1

9 AN ACT concerning adult care homes; relating to home plus beds;
10 amending K.S.A. 2005 Supp. 39-923 and repealing the existing section.

11

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

13 Section 1. K.S.A. 2005 Supp. 39-923 is hereby amended to read as
14 follows: 39-923. (a) As used in this act:

15 (1) "Adult care home" means any nursing facility, nursing facility for
16 mental health, intermediate care facility for the mentally retarded, as-
17 sisted living facility, residential health care facility, home plus, boarding
18 care home and adult day care facility, all of which classifications of adult
19 care homes are required to be licensed by the secretary of aging.

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

25 (3) "Nursing facility for mental health" means any place or facility
26 operating 24 hours a day, seven days a week caring for six or more indi-
27 viduals not related within the third degree of relationship to the admin-
28 istrator or owner by blood or marriage and who, due to functional im-
29 pairments, need skilled nursing care and special mental health services
30 to compensate for activities of daily living limitations.

31 (4) "Intermediate care facility for the mentally retarded" means any
32 place or facility operating 24 hours a day, seven days a week caring for
33 six or more individuals not related within the third degree of relationship
34 to the administrator or owner by blood or marriage and who, due to
35 functional impairments caused by mental retardation or related condi-
36 tions need services to compensate for activities of daily living limitations.

37 (5) "Assisted living facility" means any place or facility caring for six
38 or more individuals not related within the third degree of relationship to
39 the administrator, operator or owner by blood or marriage and who, by
40 choice or due to functional impairments, may need personal care and
41 may need supervised nursing care to compensate for activities of daily
42 living limitations and in which the place or facility includes apartments
43 for residents and provides or coordinates a range of services including

1 personal care or supervised nursing care available 24 hours a day, seven
2 days a week for the support of resident independence. The provision of
3 skilled nursing procedures to a resident in an assisted living facility is not
4 prohibited by this act. Generally, the skilled services provided in an as-
5 sisted living facility shall be provided on an intermittent or limited term
6 basis, or if limited in scope, a regular basis.

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

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

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
39 owner by blood or marriage and who, due to functional impairment, need
40 supervision of activities of daily living but who are ambulatory and essen-
41 tially 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

- 1 of relationship to the operator or owner by blood or marriage and who,
2 due to functional impairment need supervision of or assistance with ac-
3 tivities of daily living.
- 4 (10) "Place or facility" means a building or any one or more complete
5 floors of a building, or any one or more complete wings of a building, or
6 any one or more complete wings and one or more complete floors of a
7 building, and the term "place or facility" may include multiple buildings.
- 8 (11) "Skilled nursing care" means services performed by or under the
9 immediate supervision of a registered professional nurse and additional
10 licensed nursing personnel. Skilled nursing includes administration of
11 medications and treatments as prescribed by a licensed physician or den-
12 tist; and other nursing functions which require substantial nursing judg-
13 ment and skill based on the knowledge and application of scientific
14 principles.
- 15 (12) "Supervised nursing care" means services provided by or under
16 the guidance of a licensed nurse with initial direction for nursing proce-
17 dures and periodic inspection of the actual act of accomplishing the pro-
18 cedures; administration of medications and treatments as prescribed by
19 a licensed physician or dentist and assistance of residents with the per-
20 formance of activities of daily living.
- 21 (13) "Resident" means all individuals kept, cared for, treated,
22 boarded or otherwise accommodated in any adult care home.
- 23 (14) "Person" means any individual, firm, partnership, corporation,
24 company, association or joint-stock association, and the legal successor
25 thereof.
- 26 (15) "Operate an adult care home" means to own, lease, establish,
27 maintain, conduct the affairs of or manage an adult care home, except
28 that for the purposes of this definition the word "own" and the word
29 "lease" shall not include hospital districts, cities and counties which hold
30 title to an adult care home purchased or constructed through the sale of
31 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, but
39 is not limited to, a toilet room with bathing facilities, sleeping, living and
40 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 envi-
5 ronment by rules and regulations.

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

10 (23) “Personal care” means care provided by staff to assist an indi-
11 vidual with, or to perform activities of daily living.

12 (24) “Functional impairment” means an individual has experienced
13 a decline in physical, mental and psychosocial well-being and as a result,
14 is 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 resi-
19 dential health care facility.

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

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

35 (c) Nursing facilities in existence on the effective date of this act
36 changing licensure categories to become residential health care facilities
37 shall be required to provide private bathing facilities in a minimum of
38 20% of the individual living units.

39 (d) Facilities licensed under the adult care home licensure act on the
40 day immediately preceding the effective date of this act shall continue to
41 be licensed facilities until the annual renewal date of such license and
42 may renew such license in the appropriate licensure category under the
43 adult care home licensure act subject to the payment of fees and other

1 conditions and limitations of such act.

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

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

14 Sec. 2. K.S.A. 2005 Supp. 39-923 is hereby repealed.

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