

CHAPTER 127
SENATE BILL No. 100

AN ACT concerning certain adult care homes; related to certain nursing facilities and assisted living facilities; relating to risk assessment plans and inspection reports; amending K.S.A. 39-935 and repealing the existing section.

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

Section 1. K.S.A. 39-935 is hereby amended to read as follows: 39-935. (a) Inspections shall be made and reported in writing by the authorized agents and representatives of the licensing agency and state fire marshal, and of the county, city-county and multicounty health departments as often and in the manner and form prescribed by the rules and regulations promulgated under the provisions of this act. Access shall be given to the premises of any adult care home at any time upon presenting adequate identification to carry out the requirements of this section and the provisions and purposes of this act, and failure to provide such access shall constitute grounds for denial or revocation of license. A copy of any inspection reports required by this section shall be furnished to the applicant, except that a copy of the preliminary inspection report signed jointly by a representative of the adult care home and the inspector shall be left with the applicant when an inspection under this section is completed. This preliminary inspection report shall constitute the final record of deficiencies assessed against the adult care home during the inspection, all deficiencies shall be specifically listed and no additional deficiencies based upon the data developed at that time shall be assessed at a later time. An exit interview shall be conducted in conjunction with the joint signing of the preliminary inspection report.

(b) The authorized agents and representatives of the licensing agency shall conduct at least one unannounced inspection of each adult care home within 15 months of any previous inspection for the purpose of determining whether the adult care home is complying with applicable statutes and rules and regulations relating to the health and safety of the residents of the adult care home. The statewide average interval between inspections shall not exceed 12 months.

(c) Every adult care home shall post in a conspicuous place a notice indicating that the most recent inspection report and related documents may be examined in the office of the administrator of the adult care home. Upon request, every adult care home shall provide to any person a copy of the most recent inspection report and related documents, provided the person requesting such report agrees to pay a reasonable charge to cover copying costs.

(d) *Each nursing facility that provides skilled nursing care, nursing facility for mental health that provides skilled nursing care or assisted living facility may establish and maintain a risk management program which shall consist of: (1) A system for investigation and analysis of the frequency and causes of reportable incidents within the facility; (2) measures to minimize the occurrence of reportable incidents and the resulting injuries within the facility; and (3) a reporting system based upon the duty of all health care providers staffing the facility and all agents and employees of the facility directly involved in the delivery of health care services to report reportable incidents to the chief of the medical staff, chief administrative officer or risk manager of the facility. Any reports and records reviewed, obtained or prepared by the department on aging in connection with any reportable incidents referred for investigation under such risk management program, including any reports and records reflecting the results of an inspection or survey under this chapter or in accordance with the regulations, guidelines and procedures issued by the United States secretary of health and human services under Titles XVIII and XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, shall not be admissible in any civil action under the laws of the state of Kansas unless the court determines on the record, following a hearing outside the presence of the jury, that the proffered evidence excerpted from any report, record, inspection or survey is relevant and substantially related to the plaintiff's allegations and otherwise admissible under the rules of evidence set forth in article 4, chapter 60 of the Kansas Statutes Annotated and amendments thereto. This subsection shall not be construed to limit or impair a person's or entity's discovery of or access to any such report, record, inspection or survey under state or federal*

law; limit or impair the authority of the department on aging to investigate complaints or reportable incidents under state or federal law; or diminish or expand the department on aging's discovery of or access to quality assessment and assurance committee records under state or federal law.

Sec. 2. K.S.A. 39-935 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 13, 2005.

Published in the *Kansas Register* April 21, 2005.
