

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2471** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee of the Whole amendments, as follows:

On page 2, in line 6, by striking all following "(3)"; by striking all in line 7; in line 8, by striking all before the semicolon; in line 15, by striking all following "(3)"; by striking all in line 16; in line 17, by striking all before the semicolon; in line 25, by striking all following "(3)"; by striking all in line 26; in line 27, by striking all before the semicolon;

On page 3, following line 21, by inserting:

"Sec. 2. On and after July 1, 2012, K.S.A. 2011 Supp. 39-923 is hereby amended to read as follows: 39-923. (a) As used in this act:

(1) "Adult care home" means any nursing facility, nursing facility for mental health, intermediate care facility for ~~the mentally retarded~~ people with intellectual disability, assisted living facility, residential health care facility, home plus, boarding care home and adult day care facility; all of which are classifications of adult care homes and are required to be licensed by the secretary of aging.

(2) "Nursing facility" means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to

functional impairments, need skilled nursing care to compensate for activities of daily living limitations.

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

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

(5) "Assisted living facility" means 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 activities of daily living 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. The provision of skilled nursing procedures to a resident in an assisted living facility is not prohibited by this act.

Generally, the skilled services provided in an assisted living facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(6) "Residential health care facility" means 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 activities of daily living 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. The provision of skilled nursing procedures to a resident in a residential health care facility is not prohibited by this act. Generally, the skilled services provided in a residential health care facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(7) "Home plus" means 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 activities of daily living limitations. The level of care provided to 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 after the effective date of this act 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.

(8) "Boarding care home" means any place or facility operating 24 hours a day, seven days a week, caring for not more than 10 individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment, need supervision of activities of daily living but who are ambulatory and essentially capable of managing their own care and affairs.

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

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

(11) "Skilled nursing care" means services performed by or under the immediate supervision of a registered professional nurse and additional licensed nursing personnel. Skilled nursing includes administration of medications and treatments as prescribed by a

licensed physician or dentist; and other nursing functions which require substantial nursing judgment and skill based on the knowledge and application of scientific principles.

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

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

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

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

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

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

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

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

lockable door.

(20) "Individual living unit" means a private unit which includes, but is not limited to, a toilet room with bathing facilities, sleeping, living and storage area and a lockable door.

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

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

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

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

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

(26) The term "intermediate personal care home" for purposes of those

individuals applying for or receiving veterans' benefits means residential health care facility.

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

(28) "Medicaid program" means the Kansas program of medical assistance for which federal or state moneys, or any combination thereof, are expended, or any successor federal or state, or both, health insurance program or waiver granted thereunder.

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

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

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

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

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

Sec. 3. On and after July 1, 2012, K.S.A. 2011 Supp. 39-931 is hereby amended to read as follows: 39-931. (a) Whenever the licensing agency finds a substantial failure to comply with the requirements, standards or rules and regulations established under this act or that a receiver has been appointed under K.S.A. 39-958, and amendments thereto, it shall make an order denying, suspending or revoking the license after notice and a hearing in accordance with the provisions of the Kansas administrative procedure act,



K.S.A. 77-501 et seq., and amendments thereto. Any applicant or licensee who is aggrieved by the order may appeal such order in accordance with the provisions of the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto.

(b) Except as provided in subsection (c), whenever the licensing agency denies, suspends or revokes a license under this section, the applicant or licensee shall not be eligible to apply for a new license or reinstatement of a license for a period of two years from the date of denial, suspension or revocation.

(c) (1) Any applicant or licensee issued an emergency order by the licensing agency denying, suspending or revoking a license under this section may apply for a new license or reinstatement of a license at any time upon submission of a written waiver of any right conferred upon such applicant or licensee under the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto, and the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto, to the licensing agency in a settlement agreement or other manner as approved by the licensing agency.

(2) Any licensee issued a notice of intent to take disciplinary action by the licensing agency under this section may enter into a settlement agreement or other manner as approved by the licensing agency, with the licensing agency, at any time upon submission of a written waiver of any right conferred upon such licensee under the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto, and the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto.

(d) No person shall operate an intermediate care facility for people with intellectual disability of five beds or less, as defined by subsection (a)(4) of K.S.A. 39-

923, and amendments thereto, within this state unless such person:

(A) Is issued a license by the licensing agency on or before January 1, 2012; or

(B) participated in the medicaid program as an intermediate care facility for people with intellectual disability of five beds or less, on or before January 1, 2012.

Sec. 4. On and after July 1, 2012, K.S.A. 39-931a is hereby amended to read as follows: 39-931a. (a) As used in this section, the term "person" means any person who is an applicant for a license to operate an adult care home or who is the licensee of an adult care home and who has any direct or indirect ownership interest of 25% or more in an adult care home or who is the owner, in whole or in part, of any mortgage, deed of trust, note or other obligation secured, in whole or in part, by such facility or any of the property or assets of such facility, or who, if the facility is organized as a corporation, is an officer or director of the corporation, or who, if the facility is organized as a partnership, is a partner.

(b) Pursuant to K.S.A. 39-931~~2~~, and amendments thereto, the licensing agency may deny a license to any person and may suspend or revoke the license of any person who:

(1) Has willfully or repeatedly violated any provision of law or rules and regulations adopted pursuant to article 9 of chapter 39 of the Kansas Statutes Annotated and ~~acts amendatory of the provisions thereof or supplemental~~ amendments thereto;

(2) has had a license to operate an adult care home denied, suspended, revoked or limited, has been censured or has had other disciplinary action taken, or an application for a license denied, by the proper licensing authority of another state, territory, District

of Columbia or other country, a certified copy of the record of such action of the other jurisdiction being conclusive evidence thereof;

(3) has failed or refused to comply with the medicaid requirements of title XIX of the social security act, or medicaid regulations under chapter IV of title 42 of the code of federal regulations, a certified copy of the record of such action being conclusive evidence thereof;

(4) has failed or refused to comply with the medicare requirements of chapter 7 of title 42 of the United States code, or medicare regulations under chapter IV of title 42 of the code of federal regulations, a certified copy of the record of such action being conclusive evidence thereof;

(5) has been convicted of a felony;

~~(3)~~ (6) has failed to assure that nutrition, medication and treatment of residents, including the use of restraints, are in accordance with acceptable medical practices; ~~or~~

~~(4)~~ (7) has aided, abetted, sanctioned or condoned any violation of law or rules and regulations adopted pursuant to article 9 of chapter 39 of the Kansas Statutes Annotated; or

~~(5)~~ (8) has willfully admitted a person to a nursing facility in violation of K.S.A. 39-968, and amendments thereto.";

And by renumbering sections accordingly;

Also on page 3, following line 22, by inserting:

"Sec. 6. On and after July 1, 2012, K.S.A. 39-931a and K.S.A. 2011 Supp. 39-923, 39-931 are hereby repealed.";

On page 1, in the title, in line 1, by striking "the board of" and inserting "licensure and"; in line 2, after "amending" by inserting "K.S.A. 39-931a and"; also in line 2, after "Supp." by inserting "39-923, 39-931 and"; in line 3, by striking "section" and inserting "sections";

And your committee on conference recommends the adoption of this report.

---

---

---

Conferees on part of Senate

---

---

---

Conferees on part of House